10-24-88
Vol. 53 No. 205

federal register

Monday
October 24, 1988

Book 1 of 2 Books

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

10-24-88
Vol. 53 No. 205
Book 1:
Pages 41551-42314

Book 2:
Pages 42315-42930

federal register

Book 1 of 2 Books
Monday, October 24, 1988

Briefing on How To Use the Federal Register—
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 53 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 4; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

Contents

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

Presidential Documents

Title 3—

The President

Proclamation 5885 of October 20, 1988

Increase in the Rates of Duty for Certain Articles From Brazil

By the President of the United States of America

A Proclamation

1. On July 21, 1988, prior to the date of enactment of section 1301 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), I determined pursuant to section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411), that the Government of Brazil has failed to provide process and product patent protection for pharmaceutical products and fine chemicals, and that this failure is unreasonable and constitutes a burden or restriction on U.S. commerce (53 Fed. Reg. 28177). This failure permits the unauthorized copying of pharmaceutical products and processes that were invented by U.S. firms. I directed the United States Trade Representative to hold public hearings on products of Brazil that were appropriate candidates for increased duties or other import restrictions, and those hearings were held September 8 and 9, 1988. I have further determined, pursuant to section 301 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, that appropriate and feasible action in response to Brazil's unreasonable policies and practices is to impose increased duties of 100 percent *ad valorem* on certain imported articles that are the products of Brazil.

2. Section 301 of the Act as amended authorizes appropriate and feasible action within the power of the President to obtain the elimination of an act, policy, or practice of a foreign government that is inconsistent with the provisions of, or otherwise denies benefits to the United States under, a trade agreement; or is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce. Section 301 authorizes the suspension, withdrawal, or prevention of the application of benefits of trade agreement concessions with respect to, and the imposition of duties or other import restrictions on the products of, such foreign country for such time as is appropriate. Pursuant to section 301, such actions may be taken on a nondiscriminatory basis or solely against the products of the foreign country involved.

3. I have decided, pursuant to section 301, to increase U.S. import duties on the articles provided for in the annexes to this Proclamation that are the products of Brazil.

4. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) authorizes the President to embody in the Tariff Schedules of the United States (TSUS) the substance of the provisions of that Act, of other Acts affecting import treatment, and of actions taken thereunder. Section 1204(b) of the Omnibus Trade and Competitiveness Act of 1988 requires that I proclaim such modifications to the Harmonized Tariff Schedule of the United States (HTS), as enacted in section 1204 of that Act, as are necessary or appropriate to implement the applicable provisions of statutes enacted, executive actions taken, and final judicial decisions rendered, after January 1, 1988, and before the effective date of the HTS.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including but not limited to sections 301 and 604 of the Trade Act of 1974, as amended, and section 1204 of the Omnibus Trade and Competitiveness Act of 1988, do proclaim that:

(1) Subpart B of part 2 of the Appendix to the TSUS is modified as provided in Annex I to this Proclamation.

(2) Chapter 99 of the HTS is modified as provided in Annex II to this Proclamation.

(3) The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this Proclamation upon publication in the **Federal Register** of his determination that such action is in the interest of the United States.

(4)(a) The modifications to the TSUS made by Annex I to this Proclamation are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 10th day after the date of signature of this Proclamation.

(b) The modifications to the HTS made by Annex II to this Proclamation are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1989.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

Billing code 3195-01-M

ANNEX I

Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States is modified by inserting in numerical sequence the following new items and superior heading, set forth herein in columnar form, in the columns designated "Item", "Articles", "Rates of Duty 1", and "Rates of duty 2", respectively.

	"Articles the product of Brazil:		
946.60	Writing paper weighing over 18 pounds per ream (provided for in item 252.75, part 4B of schedule 2).....	100% ad val.	No change
946.61	Other papers not specially provided for, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated, weighing not over 18 pounds per ream (provided for in items 252.77 and 252.79, part 4B of schedule 2).....	100% ad val.	No change
946.62	Writing paper weighing over 18 pounds per ream, not lithographically printed (provided for in item 254.56, part 4B of schedule 2).....	100% ad val.	No change
946.63	Other paper and paperboard (except basic paper to be sensitized for use in photography and except filtering paper), cut to size or shape (provided for in items 256.20, 256.25, and 256.30, part 4C of schedule 2).....	100% ad val.	No change
946.64	Blank books, bound (provided for in items 256.56 and 256.58, part 4C of schedule 2).....	100% ad val.	No change
946.65	Synthetic alkaloids and their compounds (provided for in item 437.20, part 3B of schedule 4).....	100% ad val.	No change
946.66	Antibiotics, except natural and not artificially mixed (provided for in item 437.32, part 3B of schedule 4)...	100% ad val.	No change
946.67	Menthol (provided for in item 437.64, part 3B of schedule 4).....	100% ad val.	No change
946.68	Microwave ovens (provided for in item 684.25, part 5 of schedule 6).....	100% ad val.	No change
946.70	Television cameras, and parts thereof (provided for in item 684.90, part 5 of schedule 6).....	100% ad val.	No change

ANNEX I (con.)

946.71	Complete television receivers (provided for in item 684.92, part 5 of schedule 6)	100% ad val.	No change
946.72	Television receiver assemblies having a picture tube (including kits containing all parts necessary for assembly into complete monochrome or color receivers) (provided for in items 684.94 and 684.96, part 5 of schedule 6)	100% ad val.	No change
946.73	Record players, phonographs, record changers, turntables, and parts of the foregoing (except tone arms and parts thereof) (provided for in item 685.38, part 5 of schedule 6)	100% ad val.	No change
946.74	Telephone answering machines, and parts thereof (provided for in item 685.39, part 5 of schedule 6)	100% ad val.	No change
946.75	Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof (provided for in item 685.40, part 5 of schedule 6)	100% ad val.	No change
946.76	Radio-television-phonograph combinations (provided for in item 685.42, part 5 of schedule 6)	100% ad val.	No change
946.77	Other radiotelegraphic and radiotelephonic transmission and reception apparatus, and parts thereof, not specially provided for (provided for in item 685.49, part 5 of schedule 6)	100% ad val.	No change"

ANNEX II

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) (section 1204 of Pub. L. 100-418) is modified by inserting the following new subheadings and superior description, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", "Rates of Duty 1 General", and "Rates of Duty 2", respectively.

	"Articles the product of Brazil:		
9903.42.01	Menthol (provided for in subheading 2906.11.00); medicaments containing menthol, put up in measured doses or in forms or packings for retail sale (provided for in subheading 3004.90.60).....	100% ad val.	No change
9903.42.05	Theophylline and aminophylline (Theophylline-ethylenediamine) and their derivatives, ephedrines (except pseudoephedrine), alkaloids of rye ergot and their derivatives, and salts of any of the foregoing (provided for in subheadings 2939.40.50, 2939.50.00 and 2939.60.00); vegetable alkaloids reproduced by synthesis and their salts, ethers, esters and other derivatives, the foregoing not specially provided for (provided for in subheading 2939.90.50); and medicaments containing any of the foregoing alkaloids or derivatives but not containing hormones or other products of heading 2937 or antibiotics, whether or not put up in measured doses or in forms or packings for retail sale (provided for in subheadings 3003.40.00 and 3004.40.00).....	100% ad val.	No change
9903.42.10	Streptomycins, tetracyclines and erythromycin and their derivatives; salts of any of the foregoing (provided for in subheadings 2941.20.00, 2941.30.00 and 2941.50.00); other antibiotics not specially provided for, except natural and except aromatic or modified aromatic (provided for in subheading 2941.90.50); medicaments containing antibiotics other than penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives, the foregoing not put up in measured doses or in forms or packings for retail sale (provided for in subheading 3003.20.00); medicaments containing penicillins or derivatives thereof (except penicillin G salts), streptomycins or their derivatives or other antibiotics (provided for in subheadings 3004.10.50 and 3004.20.00).....	100% ad val.	No change

ANNEX II (con.)

9903.42.15	Writing paper (provided for in subheadings 4802.51.10, 4802.52.10, and 4802.53.10); other writing paper and cover paper, of which more than 10 per cent by weight of the total fiber content consists of fibers obtained by a mechanical process (provided for in subheading 4802.60.10).....	100% ad val.	No change
9903.42.20	Other uncoated paper and paperboard not specially provided for, in rolls or sheets, weighing not over 30 g/m^2 (provided for in subheadings 4805.60.50 and 4805.60.70).....	100% ad val.	No change
9903.42.25	Self-copy writing paper whether or not printed, in rolls of a width exceeding 36 cm or in rectangular (including square) sheets with at least one side exceeding 36 cm in unfolded state (provided for in subheading 4809.20.20).....	100% ad val.	No change
9903.42.28	Other paper and paperboard (other than light-weight coated paper) of a kind used for writing, printing or other graphic purposes, coated on one or both sides with kaolin or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or sheets (provided for in subheading 4810.29.00).....	100% ad val.	No change
9903.42.30	Carbon or similar copying papers and self-copy paper (provided for in subheadings 4816.10.00 and 4816.20.00).....	100% ad val.	No change
9903.42.33	Letter cards, plain postcards and correspondence cards (provided for in subheading 4817.20.40).....	100% ad val.	No change
9903.42.35	Toilet paper, handkerchiefs, cleansing or facial tissues and towels, and tablecloths and table napkins (provided for in subheadings 4818.10.00, 4818.20.00 and 4818.30.00).....	100% ad val.	No change
9903.42.38	Sanitary food and beverage containers (provided for in subheading 4819.50.20); trays, dishes, plates, cups and the like, of paper or paperboard (provided for in subheading 4823.60.00).....	100% ad val.	No change
9903.42.40	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles (provided for in subheadings 4820.10.20 and 4820.10.40).....	100% ad val.	No change

ANNEX II (con.)

9903.42.45	Paper and paperboard labels of all kinds, not printed, not pressure-sensitive (provided for in subheading 4821.90.40); gummed or adhesive paper, in strips or rolls, not pressure-sensitive (provided for in subheading 4823.19.00); cards, not punched, for punchcard machines, whether or not in strips (provided for in subheading 4823.30.00).....	100% ad val.	No change
9903.42.50	Other paper and paperboard (except basic paper to be sensitized for use in photography), of a kind used for writing, printing or other graphic purposes (provided for in subheadings 4823.51.00 and 4823.59.40); other coated paper or paperboard or articles thereof (provided for in subheading 4823.90.65); other goods of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibers (provided for in subheading 4823.90.85).....	100% ad val.	No change
9903.42.55	Microwave ovens (provided for in subheadings 8419.81.10 and 8516.50.00).....	100% ad val.	No change
9903.42.60	Turntables, record players, and other sound recording apparatus (except cassette type of subheading 8519.91.00), not incorporating a sound recording device (provided for in heading 8519); parts of the foregoing (provided for in subheading 8522.90.90).....	100% ad val.	No change
9903.42.65	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device (provided for in heading 8520); parts of the foregoing (provided for in subheadings 8522.90.60 and 8522.90.90).....	100% ad val.	No change
9903.42.70	Magnetic tape-type video recording or reproducing apparatus (provided for in subheading 8521.10.00).....	100% ad val.	No change
9903.42.75	Parts and accessories of apparatus of headings 8519 to 8521 (provided for in subheadings 8522.90.60 and 8522.90.90).....	100% ad val.	No change
9903.42.80	Television cameras (provided for in subheading 8525.30.00).....	100% ad val.	No change

ANNEX II (con.)

9903.42.85	Radio-tape recorder combinations (provided for in subheading 8527.11.20); radiobroadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles, combined with sound recording or reproducing apparatus, other than radio-tape player combinations (provided for in subheading 8527.21.40); other combination radiobroadcast receivers incorporating tape recorders (provided for in subheading 8527.31.50).....	100% ad val.	No change
9903.42.90	Television receivers (including video monitors and video projection television receivers), whether or not combined, in the same housing, with radiobroadcast receivers or sound or video recording or reproducing apparatus (provided for in heading 8528)....	100% ad val.	No change
9903.42.95	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528 (provided for in subheadings 8529.90.30 and 8529.90.50).....	100% ad val.	No change"

[FR Doc. 88-24711
Filed 10-21-88; 11:14 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

Expenses and Assessment Rate for Marketing Order Covering Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 906 for the 1988–89 fiscal period established for that order. The rule is needed for the Texas Valley Citrus Committee to incur operating expenses during the 1988–89 fiscal period and to collect funds during that period to pay those expenses. This will facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1988, through July 31, 1989 (§ 906.228).

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–3918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 906 (7 CFR Part 906) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 22 handlers of oranges and grapefruit under this marketing order, and approximately 3,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may classify as small entities.

Each marketing order administered by the Department of Agriculture requires that the assessment rate for a particular fiscal period shall apply to all assessable commodities handled from the beginning of such period. An annual budget of expenses is prepared by each administrative committee and submitted to the Department for approval. The members of the administrative committees are handlers and producers of the regulated commodities. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local areas, and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity (e.g., pounds, tons, boxes, cartons, etc.). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committee before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Texas Valley Citrus Committee met September 6, 1988, and unanimously recommended 1988–89 fiscal period expenditures of $1,376,634 and an assessment rate of $0.12 per 7/10 bushel carton of assessable oranges and grapefruit shipped under M.O. 906. In comparison, 1987–88 budgeted expenditures were $857,400 with an assessment rate of $0.10 per 7/10 bushel carton shipped. Major expenditure items bugeted this year in comparison to 1987–88 actual expenditures (in parentheses) are $1,080,000 ($462,000) for advertising and promotion, $143,634 ($96,601) for the mex-fly program, and $153,000 ($96,920) for program administration. The increase in advertising expenses is needed to market the 1988–89 production expected to be 15 percent higher than last season. The increase in program administration expenses is needed to cover salary and rent increases and the anticipated cost of participating in a possible citrus conference in California.

An estimated assessment income of $918,528 based on the shipment of 7,654,400 cartons of oranges and grapefruit, along with $35,000 in interest income, $54,000 in prepaid advertising and $369,106 to be taken from the operating reserve will be utilized to cover 1988–89 fiscal period expenditures.

Unexpended funds from the 1987–88 fiscal period will be placed in the committee's operating reserves. The reserves are well within the maximum authorized under the order.

A proposed rule inviting comments on the Texas Valley Citrus committee's 1988–89 expenses and assessment rate was published in the Federal Register on September 27, 1988 (53 FR 37585). The comment period ended October 7, 1988. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits

derived from the operation of the marketing order. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found that the budget of expenses, assessment rate, and carryover of unexpended funds are reasonable and will tend to effectuate the declared policy of the Act.

This budget of expenses and assessment rate should be expedited because the committee needs to have sufficient funds to pay their expenses, which are incurred on a continuous basis. Therefore, the Secretary also finds that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, oranges and grapefruit, Texas.

For the reasons set forth in the preamble, 7 CFR Part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR Part 906 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 906.228 is added to read as follows:

Note.—This section will not appear in the Code of Federal Regulations.

§ 906.228 Expenses and assessment rate.

Expenses of $1,376,634 by the Texas Valley Citrus Committee are authorized, and an assessment rate of $0.12 per 7/10 bushel carton of assessable oranges and grapefruit is established for the fiscal period ending July 31, 1989. Unexpended funds from the 1987–88 fiscal year may be carried over as a reserve.

Dated: October 18, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–24478 Filed 10–21–88; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 910

[Lemon Reg. 635, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action increases the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 16 through October 22, 1988, from 229,000 cartons to 254,000 cartons. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 635, Amendment 1 (§ 910.935) is effective for the period October 16 through October 22, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910] regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (committee) and upon their available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1988–89. The committee conducted a telephone poll on October 17, 1988, and, upon considering the current and prospective conditions of supply and demand, unanimously recommended that the quantity of lemons deemed advisable to be handled during the specified week be increased from 229,000 cartons to 254,000 cartons. The committee reports that the demand for lemons has improved beyond what was anticipated by the committee on October 12, 1988, when the 229,000 carton recommendation was made.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.935 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.935 Lemon Regulation 635, Amendment 1.

The quantity of lemons grown in California and Arizona which may be handled during the period October 16, 1988, through October 22, 1988, is established at 254,000 cartons.

Dated: October 18, 1988.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88–24479 Filed 10–21–88; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 636]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 636 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 264,000 cartons during the period October 23 through October 29, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 636 (§ 910.936) is effective for the period October 23 through October 29, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject ot such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910] regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1988–89. The Committee met publicly on October 19, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that the demand for lemons has improved.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.936 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.936 Lemon Regulation 636.

The quantity of lemons grown in California and Arizona which may be handled during the period October 23, 1988, through October 29, 1988, is established at 264,000 cartons.

Dated: October 20, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–24617 Filed 10–21–88; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 88–160]

Horse Protection Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Horse Protection Regulations to remove language that would have terminated after October 31, 1988, provisions that prohibit heel buildup in excess of 1 inch on yearling horses. This amendment is necessary to better protect horses under the Horse Protection Act.

DATES: This interim rule is effective October 24, 1988. Consideration will be given only to comments postmarked or received on or before November 23, 1988.

ADDRESSES: Send an original and three copies of written comments to Regulatory Analysis and Development, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 88–160. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7833.

SUPPLEMENTARY INFORMATION:

Background

In this interim rule we are removing language, inadvertently retained in the Horse Protection Regulations in 9 CFR Part II (referred to below as the regulations), that would have terminated after October 31, 1988, a prohibition of heel buildup in excess of 1 inch on yearling horses.

On April 26, 1988, we published an interim rule in the Federal Register (53 FR 14778–14782, Docket No. 88–052) that amended the regulations to establish a schedule for phasing down the maximum allowable height of pads used on horses. The schedule would have limited the total height of pads to 1 inch as of November 1, 1988.

Prior to the April 26 interim rule, § 11.2(b)(8) of the regulations prohibited

indefinitely the use of pads or other devices on yearling horses that elevate or change the angle of the yearlings' hooves more than 1 inch at the heel. This limit is necessary because the immature development of yearlings' limbs makes higher pads potentially harmful to these horses. However, our limiting the total height of pads on all horses to 1 inch as of November 1, 1988, made the provisions of § 11.2(b)(8) superfluous after October 31, 1988. Therefore, we added language to the regulations that would have terminated the provisions of § 11.2(b)(8) after October 31, 1988.

In a subsequent interim rule published July 28, 1988 (53 FR 28366–28373, Docket No. 88–125), we eliminated the regulations that phased down maximum pad height to 1 inch, and established in their place restrictions on pad height based on the length of a horse's natural foot. Under these new provisions, currently in effect, the pad height on some horses may exceed 1 inch, which would be injurious to yearling horses. However, in the July 28 interim rule, we inadvertently retained the language that terminates the provisions of § 11,2(b)(8) after October 31. Because it continues to be necessary for the well-being of yearing horses to limit any change in the elevation or angle of their hooves to 1 inch, we are removing the language in the regulations that would have terminated the provisions of § 11.2(b)(8) after October 31, 1988.

Emergency Action

The Adminnistrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists, which warrants publication of this interim rule without prior notice and opportunity for public comment.

It is important for the well-being of yearling horses that we retain the 1-inch limit on any change in the elevation or angle of those horses' hooves at the heel. To ensure that this restriction remains effective after October 31, 1988, we are publishing this interim rule.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interst under these emergency conditions, there is good cause under 5 U.S.C. 553 for making it effective upon publication in the **Federal Register**. We will consider comments postmarked or received within 30 days of the publication of this rule in the **Federal Register**. Any amendments we make to this rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this interim rule in conformance with Executive Order 12291 and Departmental Regulation 1512–1, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The change to the regulations made by this interim rule will cause no change in current industry practices.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paper Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 11

Animal welfare, Horses, Humane animal handling, Soring of horses.

PART 11—HORSE PROTECTION REGULATIONS

Accordingly, 9 CFR Part 11 is amended as follows:

1. The authority citation for Part 11 continues to read as follows:

Authority: 15 U.S.C. 1823, 1924, 1925, and 1928; 44 U.S.C. 3506.

2. Section 11.2 is amended by revising paragraph (b)(8) to read as follows:

§ 11.2 Prohibitions concerning exhibitors.

* * * * *

(b) * * *

(8) Pads or other devices on yearling horses that elevate or change the angle of such horses' hooves in excess of 1 inch at the hell.

* * * * *

Done in Washington, D.C., this 19th day of October, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–24471 Filed 10–21–88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 80475–8204]

U.S. Trade in Services; Revisions in Requirements for Exemption From Reporting in the BE–29 Survey of Foreign Ocean Carriers' Expenses in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This notice sets forth the final rule to revise the exemption requirements for the annual BE–29 survey of foreign ocean carriers' expenses in the United States. The survey is mandatory and is conducted pursuant to the International Investment and Trade in Services Survey Act.

This final rule amends 15 CFR Part 801, as amended. It implements changes in exemption criteria requested by U.S. agents that represent foreign ocean carriers in the United States.

EFFECTIVE DATE: The rules will be effective November 23, 1988, beginning with reports covering 1988. Reporting forms will be mailed to respondents in early January and will be due March 31, 1988.

FOR FURTHER INFORMATION CONTACT: Anthony J. Di Lullo, Assistant Chief, Balance of Payments Division (BE–58), Bureau of Economic Analysts, U.S. Department of Commerce, Washington, DC 20230; Phone (202) 523–0621.

SUPPLEMENTARY INFORMATION:

Background

In the July 14, 1988 **Federal Register**, Volume 53, No. 135 (53 FR 26603), BEA published a notice of proposed rulemaking to change the exemption criteria for reporting in the BE–29 survey of foreign ocean carriers' expenses in the United States. Two sets of comments were received which resulted in a change in wording to clarify the exemption criteria, as noted below. With the exception of this change, the final rule is the same as the proposed rule.

The changes in the exemption criteria were prompted by requests from four regional associations of steamship agents and ship owners and brokers. The associations said that agents were expending excessive amounts of time in searching records to detemine whether they were exempt from reporting.

The revision in the "Exemption" section will reduce the amount of time expended by agents to determine eligibility for exemption from reporting by introducing alternative criteria. Some association members suggested that small agents (agents that were not major representatives of foreign ocean carriers) would probably handle less than forty port calls per year by foreign ocean carriers, and it is simpler to count the number of port calls by foreign ocean carriers that the agent handled than to tabulate the expenses of foreign carriers it handled to determine exemption eligibility. Thus, the revised criteria exempt an agent from reporting if the agent handled less than forty port calls by foreign ocean carriers or total covered expenses were less than $250,000 in a given year. If an agent handled forty or more port calls by foreign ocean carriers, then the agent must report unless total expenses were less than $250,000. Also, agents are no longer required to conduct a manual search of records. The determination of whether an agent handled more than $250,000 in port call expenses of foreign ocean carriers may be based on the judgment of knowledgeable persons in the agent's firm who can identify such transactions without conducting a manual search of records. Previously, the sole criterion for exemption was that covered expenses must be less than $500,000.

During the public comment period on the proposed rule, the New Orleans Steamship Association and the West Gulf Maritime Association requested clarification of the exemption criteria. In addition, the West Gulf Maritime Association requested raising of the dollar-level exemption to $500,000. In response to the request for clarification, the reporting instructions were changed to "is exempted * * * if the total number of port calls * * * is less than 40 or covered expenses are less than $250,000" from "is exempted * * * if the total number of port calls * * * is less than 40 and covered expenses are less than $250,000." The exemption level was not raised to $500,000, as requested, because coverage would be inadequate.

The public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, search existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate, including suggestions for reducing the burden, may be sent to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and budget, Washington, DC 20505.

Executive Order 12291

BEA has determined that this final rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100.0 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Paperwork Reduction Act

The collection of information requirements in this final rule has been approved by OMB through September 30, 1991 (OMB No. 0608–0012).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to this rulemaking because it will not have a significant economic impact on a substantial number of small entities. The exemption levels were revised to ensure that small businesses are excluded from reporting.

Accordingly, the General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 801

Economic statistics, Foreign trade, Reporting and recordkeeping requirements, Services.

Dated: September 29, 1988.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 801 is amended as follows:

PART 801—[REVISED]

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

2. Section 801.9(b)(1)(ii) is revised to read as follows:

§ 801.9 Reports required:

(b) * * *

(1) * * *

(i) * * *

(ii) *Exemption.* Any U.S. person otherwise required to report is exempted from reporting if the total number of port calls by foreign vessels handled in the reporting period is less than forty or total covered expenses are less than $250,000. For example, if an agent handled less than 40 port calls in a calendar year, the agent is exempted from reporting. If the agent handled 40 or more calls, the agent must report unless covered expenses for all foreign carriers handled by the agent were less than $250,000. The determination of whether a U.S. person is exempt may be based on the judgment of knowledgeable persons who can identify reportable transactions without conducting a detailed manual records search.

* * * * *

[FR Doc. 88–24500 Filed 10–21–88; 8:45 am]

BILLING CODE 3510–06–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

Exemptions from Speculative Position Limits for Positions Which Have a Common Owner But Which are Independently Controlled and for Certain Spread Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") the Commission has determined to adopt as final the proposed rules (53 FR 13290, April 22, 1988) regarding the exemption from speculative position limits for positions which have a common owner but which are

independently controlled, with several modifications. The rules have been modified somewhat, however, to permit certain affiliated persons the opportunity to demonstrate that they are in fact independent and should be treated as though they were non-affiliated for the purpose of this exemption and to permit the exemption to be avaiable in the context of exchange-set speculative position limits during the spot month in those contracts which do not have an individual month speculative position limit. In this regard, the Commission will consider broadening the scope of who may apply for the exemption and whether the exemption should be available in the spot month for additional contracts by the end of calendar year 1989. The Commission will revisit these issues with a view towards granting further relief based on its experience in administering the exemptive program, any relevant experiences of the exchanges in administering their exemptive programs, and any other factors the Commission finds to be relevant to these issues.

The Commission also is adopting as final the proposed rules (53 FR 23411, June 22, 1988), regarding certain spread positions. As adopted, these rules specify that spread or arbitrage positions between futures and option contracts may be exempt pursuant to exchange rules provided that such positions are outside of the spot month. The rules also provide a new exemption for spread or arbitrage positions between single months of a futures contract traded on the same board of trade outside of the spot month and in the same crop year. The latter exemption is available only to the extent that such positions, when combined with any outright positions, do not exceed twice the single-month speculative position limit for the applicable futures contract.

EFFECTIVE DATE: November 23, 1988.

FOR FURTHER INFORMATION CONTACT: Blake Imel, Deputy Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, 20581, (202) 254–3201 or 254–6990, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

A. Paperwork Reduction Act Notice

The public reporting burden for this collection of information is estimated to average 1.03 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581; and to Bob Neal, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503.

B. Statutory Framework

Speculative position limits have been a tool for the regulation of futures markets for over half a century. During this time, the Congress consistently has expressed confidence in the use of speculative position limits as an effective protection against unreasonable or unwarranted price fluctuations. *See,* H.R. Rep. No. 421, 74th Cong., 1st Sess. 1 (1935). *See also,* H.R. Rep. No. 624, 99th Cong., 2d Sess. 44 (1986).

In this regard, section 4a(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. 6a(1), states that:

> [e]xcessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, the Congress provided the Commission with the authority to

> fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden.[1]

As the Commission has stated previously, and various of the commenters agreed, effective enforcement of speculative position limits is dependent, in part, on a clear understanding of what positions are to be included in determining whether the applicable limit has been breached. The Congress recognized this requirement by including within section 4a of the Act a standard for the aggregation of futures positions. In particular, section 4a(1) provides that

> [i]n determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by or the trading were done by, a single person.

In 1968, the Congress amended the language of the aggregation standard to include positions "held by" one trader for another. Pub. L. 90–258, Sec. 2, 82 Stat. 26 (1968). The Senate Report accompanying the 1968 amendment stated that:

> [a]ll of the changes made by this section incorporate longstanding administrative interpretations reflected in orders of the [Commodity Exchange] Commission.

S. Rep. No. 947. 90th Cong., 2 Sess. 5 (1968).[2]

C. Regulatory Framework

As detailed in the Notice of Proposed Rulemaking relating to positions having a common owner, the Commission periodically has reviewed its policies pertaining to speculative position limits. 53 FR at 13291. Most recently, the Commission revised Federal speculative position limits, adding Federal limits for soybean meal and soybean oil and amending the structure and levels of speculative position limits.[3] 52 FR 38914 (October 20, 1987). As part of that restructuring, the Commission deleted an exemption from the speculative position limit for certain spread positions in cotton futures. Moreover, the Commission noted that it was studying issues related to its aggregation policy, the remaining area to be addressed during its ongoing reevaluation of speculative position limit policy.

D. Existing Commission Policy on Aggregation

In 1979, the Commission issued its Statement of Policy on Aggregation of Accounts and Adoption of Related Reporting Rules ("1979 Aggregation Policy"), 44 FR 33839 (June 13, 1979). In that interpretation, the Commission provided guidance to futures commission merchants ("FCMs") and others regarding the aggregation of positions for participants in controlled and guided account programs.

---

[1] 7 U.S.C. 6a(1). See also, 17 CFR Part 150, for the Commission rules fixing such limits.

[2] Prior to the creation of the Commission, section 4a(1) had long been the subject of interpretative statements issued by the Administrator of the Commodity Exchange Authority. *See* 44 FR 33843 (June 13, 1979) for a discussion of these interpretative statements.

[3] In addition to Federal speculative position limits which apply to futures contracts in many domestic agricultural commodities, speculative position limits for all other futures and for all option contracts are set by the exchanges under Commission Rule 1.61.

Specifically, the 1979 Aggregation Policy provided guidance with respect to the meaning of the "control" criterion of the aggregation standard contained in section 4a of the Act, assuming that FCMs control all discretionary customer accounts and accounts which are part of a customer trading program "unless specified conditions indicative of the absence of control exist." [4]

E. History of Spread Exemptions

1. Futures/Option Spreads

In establishing a pilot program for exchange-trade options of futures contracts on domestic agricultural commodities, the Commission adopted an exemption for Federal speculative position limits for futures/option spreads.[5] Such an exemption was necessary because the Federal speculative position limits were adopted during a period in which no options on these contracts were permitted due to a statutory bar. When the statutory bar was lifted and such option contracts were designated, exchanges were required to set the speculative position limits on such option contracts under Commission Rule 1.61, 17 CFR 1.61 (1988). In order to permit spread positions between the Federal and exchange-set speculative position limits regarding these contracts, the Commission provided an exemption from Federal speculative position limits, pursuant to Commission-approved exchange rules. 49 FR 36825 (September 20, 1984).

As the Commission explained in adopting these rules, it intended to review carefully exchange rules subsequently submitted for Commission approval. 49 FR 36827. The Commission further indicted that such exchange rules must provide that the exempt spread or arbitrage positions be limited to futures/option positions on the same board of trade in the same commodity which, as a totality, would be offsetting. As the Commission then explained, a delta-equivalent system of evaluating futures/option spread positions is an appropriate means of fulfilling this criterion where there is a "specific, readily enforceable system for identifying and monitoring those positions which are delta-neutral." *Id.* Further, the Commission advised that such exchange rules must provide for a limitation on the size of futures positions which can be acquired in connection with a futures/option spread or arbitrage exemption. 49 FR 36828.

The Commission also advised that such spreads be confined to cases where both legs pertain to the same delivery month in the underlying futures contract. 49 FR 36827. Subsequently, however, the Commission approved exchange rules which required the legs of such spread positions only to be in the same crop year, rather than in the same delivery month. Although the Commission was persuaded that such rules provided an appropriate level of market protection while offering traders greater trading flexibility, this relaxation inadvertently created the possibility that spread positions might be used to enter into futures positions in the spot month that are in excess of spot-month speculative position limits. This could occur if the option leg of the spread were in a more distant month.[6] Such an unintended outcome is contrary to the fundamental policies and objectives of Federal speculative position limits which specifically provide for spot-month limits.

2. Futures/Futures Spreads

As noted above, the Commission recently adopted final rules that extensively revised Federal speculative position limits. 52 FR 38914. Among these revisions, the Commission made several technical amendments, including deleting a straddle or spread exemption unique to the rules for the cotton futures market. That rule provided that the speculative position limits in cotton futures

> shall not be construed to apply * * *, except during the delivery month, [to] the net positions in any one future to the extent that they are shown to represent straddles between cotton futures or markets.

17 CFR 150.2(b) (1988).

In deleting the cotton spread exemption, the Commission noted that this particular exemption appeared to have been added in response to the statutory definition of hedging which pre-dated the 1974 amendments to the Act. 52 FR 38919. The Commission further noted that in light of its determination to amend Commission Rule 1.3(z)(2) to enumerate specifically as a bona fide hedging sales and purchases of futures which offset unfixed cash sales and purchases and in light of the increase in cotton speculative position limits, deletion of the spread exemption would have little impact on traders. The Commission received few comments concerning this proposed action. Accordingly, the Commission determined to delete the spread exemption, noting that it had

> carefully considered the potential benefits of inter-month spread positions versus the potential for disruption of the market if such positions become unusually large, especially where such positions are across different crop years, and the fact that the majority of existing spread positions would be accommodated by the proposed increases in the speculative position limits. On the basis of these considerations, the Commission has determined to adopt these proposed amendments as final.

53 FR at 23412, citing 52 FR 38919–20.

F. Requests for Commission Reassessment of Current Policies

1. Aggregation Policy

Representatives of certain segments of the futures industry, such as commodity pool operators and commodity trading advisors, have brought to the Commission's attention issues concerning the application of the aggregation standard to managed trading accounts. In this regard, it should be noted that such issues were also raised before the Congress during the Commission's 1986 reauthorization.[7]

---

[4] These conditions include, among others: Account opening agreements which vest authority in a trader other than the FCM to direct trading on behalf of the customer; advertising which indicates that a trader other than the FCM directs trading in a specified trading program; agreements between the FCM and other traders which demonstrate the nature of the relationship between the two; tha degree of supervision by the FCM of independent traders; confidentiality of trading decisions of a customer trading program from others; lack of access to general research information of the FCM; minimal financial interests by the FCM in tha independent accounts; and lack of common trading patterns. 44 FR 33843–44.

[5] Exchange-traded commodity options on other than domestic agricultural commodities were initially permitted under a three-year pilot program. 46 FR 54500 (November 3, 1981). Subsequently, a separate pilot program was established for options on futures contracts on domestic agricultural commodities, those commodities enumerated in section 2(a)(1)(A) of the Act, 7 U.S.C. 2 (1982). This second pilot program followed tha repeal of the statutory bar to such option trading found in section 4c of the Act, 7 U.S.C. 6c (1976). This statutory bar was repealed during the Commission's 1982 reauthorization. *See*, section 206 of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2204, 2301 (1983).

[6] Options on the domestic agricultural futures subject to Federal speculative futures limits expire prior to the first notice day of the underlying future. Accordingly, when spread exemptions for options and futures are confined to the same month, it would not be possible to use the exemption to exceed the spot-month limits. However, where such spreads are confined only to the same crop year, it is possible that such spreads could result in spot-month positions in excess of the spot-month limit.

[7] During the Commission's 1986 reauthorization, the House of Representatives reported that: [d]uring the Subcommittee hearings on reauthorization, several witnesses expressed dissatisfaction with the manner in which certain market positions are aggregated for purposes of determining compliance with speculative limits fixed under section 4a of the Act. The witnesses suggested that, in some instances, aggregation of positions based on ownership without actual control unnecessarily

Continued

These concerns focus on the "ownership" criterion of the aggregation standard.
H.R. Rep. No. 624, 99th Cong. 2d Sess. (1986) at page 43.

In addition, the Commission received from the Managed Futures Trade Association and the Chicago Board of Trade petitions for rulemaking to modify the existing aggregation standard. After carefully considering these Petitions, the Commission determined that

> [b]oth ownership and control have long been included as the appropriate aggregation criteria in the Act and Commission regulations. Generally, inclusion of both criteria has resulted in a bright-line test for aggregating positions. And as noted above, although the factual circumstances surrounding the control of accounts and positions may vary, ownership generally is clear.
>
> The present aggregation standard aids futures traders in classifying positions which must be aggregated by establishing a clear standard for enforcement of the speculative position limits. In the absence of an ownership criterion in the aggregation standard, each potential speculative position limit violation would have to be analyzed with regard to the individual circumstances surrounding the degree of trading control of the positions in question. This would greatly increase uncertainty.

53 FR at 13292.

However, the Commission further determined that some relief in this area was appropriate. Although the Commission determined not to alter its long-standing interpretation of the Act's aggregation standard, it proposed an exemption from Federal speculative position limits for certain independently controlled positions of commodity pools or similar entitles. This exemption was proposed to be available upon application to the Commission and subject to a case-by-case determination. 53 FR 13290.

2. Spread Exemptions

As with the Commission's aggregation policy, the Commission received a petition to rulemaking with respect to futures/futures spreads. Specifically, the New York Cotton Exchange, ("NYCE"), by letter dated March 16, 1988, petitioned the Commission to restore an exemption from the Commission's speculative position limit rules for cotton for positions spread between two futures months of that contract. The NYCE supported its petition on the grounds that the spread exemption it was proposing was limited to futures months in the same crop year and outside of the spot month, thereby addressing the concerns raised by the Commission in connection with the deletion of the prior exemption. 53 FR 23412. Moreover, similar exemptions exist for exchange speculative position limit rules with no apparent adverse effects. Subsequently, the Commission proposed to adopt the substance of this exemption as a general rule applicable to all Federal speculative position limits.

restricts a trader's use of the futures and options markets. In this connection, concern was expressed about the application of speculative limits to the market positions of certain commodity pools and pension funds using multiple trading managers who trade independently of each other.

II. The Proposed Rulemakings

A. Provisions of the Proposed Rules

1. Exemption for Independently Controlled Positions

The Commission proposed to provide an exemption from speculative position limits for positions held in the separate accounts of independent account controllers of a commodity pool operator or the operator of a trading vehicle which is excluded, or which has itself qualified for exclusion, from the definition of "pool" or "commodity pool operator," respectively, under Commission Rule 4.5, 17 CFR 4.5 (1988) ("Rule 4.5 entity"). The Commission proposed that the exemption be made available upon a case-by-case determination prior to the time when an applicant exceeds speculative position limits. As proposed, the exemption would apply only to positions outside of the spot-month. The Commission would approve applications for exemption conditioned upon the levels appropriate for each particular contract market, consistent with the Act's objectives of maintaining fair and orderly markets. In no event, however, could the position held or controlled by each independent account controller exceed the applicable speculative position limit.

The Commission proposed that independent account controllers be required to be Commission registrants and to be unaffiliated with any other trading entity. Thus, under the proposed rules, for example, an independent account controller could not be an employee of the commodity pool operator applying for the exemption nor could the account controller have an employment or other contractual relationship with any other commodity trading advisor trading for the commodity pool. The Commission specifically requested comment on this aspect of the rule.

The Commission proposed that to obtain the exemption, the applicant commodity pool operator or Rule 4.5 entity must file with the Commission certain supporting documents, including notarized affidavits of the applicant and the independent account controller detailing the delegation of trading control to the independent account controller and the relationship of the account controller to other independent account controllers. In addition, supporting documents such as powers of attorney, account opening documents, and updated CFTC Form 40s were proposed to be required.

Finally, the Commission proposed that it have the authority, in its discretion, to approve, deny, approve upon conditions, or rescind approval of applications previously approved by the Commission. The Commission noted that such authority permitted it to "condition its approval to specific contract markets or to a specified overall level." 53 FR 13294. The Commission further proposed that subject to the requirement that applications be updated to reflect material changes, or upon special call from the Commission, exemptions which have been granted will remain in force as long as the conditions noted on the applications continue to exist. Finally, the Commission proposed to delegate to the Director of the Division of Economic Analysis or the Director's delegee the authority to act upon applications for exemptions and to issue related special calls.

2. Exemptions for Certain Spread Positions

With respect to futures/futures spreads, the Commission proposed to provide an exemption from speculative position limits for positions between individual futures months within the same crop year outside of the spot month. The higher spread limit proposed by the Commission would be for spread positions up to twice the current speculative position limit level for outright positions in each single month, with the single month's speculative position limit applicable to any outright positions in that future. As proposed, any outright positions would have to be combined with the spread positions in that month in calculating whether the overall position exceeds twice the single-month level. The Commission, however, proposed that this exemption generally be available for all futures contracts having Federal speculative position limits and not merely to cotton futures.

With respect to futures/option spreads, the Commission proposed to clarify that such positions must be outside of the spot month of the future to be eligible for exemption from Federal position limits pursuant to exchange rules. As explained in the Notice of Proposed Rulemaking, the Commission

determined, when approving exchange speculative position limits on options on futures which are subject to Federal speculative position limits, to permit such spreads when the legs of each spread position were confined to the same crop year, rather than the same delivery month. The greater flexibility subsequently demonstrated by the commission in approving exchange rules created the anomalous situation that the spread exemption could possibly be viewed as a means of evading spot-month futures limits. As the Commission noted, at 53 FR 23413,

> while no instances of such spot-month futures/option spread positions in excess of the spot month futures level have occurred, the Commission nevertheless believes that exchange rules should specifically prohibit the use of such spread exemptions for spot month futures positions.

B. Comments Received

1. Exemption for Independently Controlled Positions

The Commission received thirty-nine comments in response to its proposed rulemaking for an exemption from speculative position limits for independently controlled positions. Two comments were received from trade associations representing commodity pool operators and other commodity professionals. Thirty comments were filed in support of the comments of one of these trade associations. Three exchanges, two attorneys with commodity futures-related practices and a commercial market participant also filed comments. Commenters overwhelmingly supported the proposed rules; several noted that they welcomed the Commission's initiative in addressing these issues. Many of the commenters specifically supported the Commission's determination to make the exemption available on a case-by-case determination.

Certain of the commenters, however, took exception with the Commission's definition of independent account controller and with the entities eligible for the exemption. In general, commenters objected to particular aspects of the rules as proposed. These objections are discussed in greater detail below. In addition, in response to the Commission's request for comments in the Notice of Proposed Rulemaking, several commenters suggested that sufficient procedures could be implemented to provide affiliates, including employees with the same degree of independence as non-affiliated persons. In addition, several commenters opined that the exemption should be available to additional entities and for positions in the spot month as well as the more distant months. Several also suggested that the exemption be self-executing, so that filing of the application would be sufficient to invoke the exemption without specific individual approval of each application by the Commission. Finally, one commenter suggested that the Commission use the Disclosure Document filed by commodity pool operators under Commission Rule 4.21 rather than require a separate application for purposes of this exemption.

2. Spread Exemptions

The Commission received three comments on the proposed rules for spread positions. The three consisted of a trade association of commercial users, a commercial user of the cotton futures market and an exchange. The three commenters generally supported the proposed rules, with the exception of the exchange which voiced several concerns as discussed below.

III. The Final Rules

A. Exemption for Independently Controlled Positions

1. Eligibility for Exemption

The Commission proposed to define those entities eligible for the exemption as commodity pool operators or the operator of a trading vehicle which is excluded, or which has qualified for exclusion, from the definition of "pool" or "commodity pool operator," respectively, under Commission Rule 4.5. Several commenters maintained that the exemption should be available to any entity which has "sophisticated institutional structures." Others would exempt any entity which has "multiple affiliates, subsidiaries and/or separate departments" or which has independent "profit centers." One commenter stressed the "growing participation in the futures and options markets of institutions such as commercial banks, investment banks, insurance companies, pension funds, futures commission merchants and broker/dealers" and opined that the exemption should be applicable to those entities as well as others.

The Commission is aware of the growing use of the futures markets by institutional users. Although the initial calls for reconsideration of the aggregation standard came from the commodity pool operator community, including, specifically, the petition for rulemaking discussed above, the Commission's proposal expanded the coverage to those entities included under Commission Rule 4.5. Commission Rule 4.5 covers certain pooled offerings of many of the entities referred to by commenters as entities which should be covered by an expanded exemption. The entities specifically enumerated in § 4.5 are investment companies registered under the Investment Company Act of 1940, insurance companies subject to the regulation of any state, bank trust companies or any other such financial depository institution subject to regulation by any state or the United States, and trustees or named fiduciaries of pension plans, with certain exceptions. *See* 17 CFR 4.5(a)(1988).[8]

The Commission has carefully considered the request of commenters that the entities eligible for this exemption be broadened. However, the Commission has determined that a more cautious approach is warranted at this time. First, the exemption appears already to cover many of the classes of institutions specifically mentioned by commenters as needing relief. In this regard, the Commission received no comments directly from such institutions suggesting that they should be included within a broadened exemptive category. Second, commenters differed sharply with respect to their expectations of how many trading entities may avail themselves of this exemption. Accordingly, some initial period for study and reflection of the effect and operation of the rule is appropriate. Therefore, the Commission will determine whether the scope of the eligibility for the exemption should be broadened by the end of calendar year 1989. This will provide the Commission with a reasonable opportunity to ascertain how the exemptive procedure is operating, to study further the trading of commodity pools and others and to determine, based upon actual experience with the rules, what, if any, additional information may be required for a broadened exemption.

2. Definition of Independent Account Controller

Several commenters objected that the definition of independent account controller was overly restrictive. In particular, commenters suggested that

[8] Although such entities generally hold positions of a hedging nature, and therefore should have no need for this exemption from speculative position limits, certain of these entities may prefer to avail themselves of this exemption for administrative or other reasons. Moreover, as the Commission noted in the Notice of Proposed Rulemaking, in proposing this exemption from speculative position limits for the operators of Rule 4.5 trading vehicles, the Commission has not sought to expand upon the criteria of the rule nor to disturb any existing relief from position limits that may be available to these persons.

the requirement that independent account controllers be unaffiliated with the commodity pool operator or other entity requesting the exemption and with other independent account controllers should be modified. These commenters stated that the proposed regulations are sufficient to safeguard the independence of account controllers, even where they are affiliated with the applicant or with other account controllers. One commenter opined that "the combined positions of such a pool [using employees considered as independent account controllers] have no more coordinated influence on market prices and are no more likely to cause unwarranted price movements or other adverse market effects than positions established by other, independent 'unaffiliated' account controllers." Commenters also suggested that affiliates for purposes of this exemption are analogous to associated persons of an FCM who, under Rule 1.46(d), may be deemed to be unaffiliated where specified criteria have been met.[9] Similarly, under Commission Rule 18.01, FCMs are not required to aggregate positions controlled by their employees who operate independent guided account programs. That rationale, several commenters maintained, should be extended to this exemption.

One commenter, in response to the Commission's request for specific comments in the Notice of Proposed Rulemaking, suggested that employees of commodity pool operators and commodity trading advisors could be deemed to be unaffiliated where the employee or affiliate is independently registered, has separate trading authority, trades pursuant to a system which is demonstrably independent both on an initial showing and over time, and where sufficient screening procedures exist which insulate an affiliated controller from receiving information about the trades of others.

The Commission has considered carefully the comments received with regard to this requirement. In general, the Commission continues to believe that independent account controllers in order to be exempt should be unaffiliated with the commodity pool operator or other trading entity, and all other account controllers including other employees of the same futures commission merchant. Such a requirement provides a bright-line test which can be applied clearly both by the Commission and by those seeking exemptions. However, in connection with its existing aggregation policy discussed above and with Commission Rule 1.46, the Commission has recognized that in certain instances employees of FCMs meeting specified criteria can be deemed to be unaffiliated. In light of this experience, and the individualized nature of the determination to grant applications for this exemption, the Commission, in adopting the final rules, has added a provision permitting an applicant to demonstrate that where an account controller is affiliated, either with a second account controller or as an employee of a commodity pool operator, sufficient indicia of independence nevertheless exist to deem such an account controller to be "unaffiliated" for purposes of this exemption.

The indicia of independence which the staff will evaluate include the following, as well as all other relevant factors:

(1) Screening procedures. Written procedures must be in place which are designed to preclude the affiliated account controller from gaining access to, or receiving data about, the trades of others. These must include document-routing procedures and other factors intended to maintain the independence of the controller's activities. The applicant should include a description of the physical location of the affiliated account controller as well as other security arrangements and procedures for screening the controller from information regarding both the trading strategies and individual positions of others;

(2) Registration and marketing. As with unaffiliated independent account controllers, an affiliate must be registered separately from the employer, must use a separate Disclosure Document and must market his or her trading program separately; and

(3) Trading system. Finally, if requested by the Commission, the affiliated independent account controller must be able to demonstrate, through a history of simulated or actual trading, that the affiliate's trading system is independent from that of the applicant or any other of the applicant's account controllers.

It must be emphasized that nothing in this approach affects the liability of registrants under section 2(a)(1) of the Act. Clearly, employees or agents trading pursuant to this relief are acting withing the scope of their employment or agency relationship. It also must be emphasized that nothing in this approach affects a registrant's responsibility under Commission Rule 166.3, 17 CFR 166.3 (1988), diligently to supervise the "handling by its partners, officers, employees and agents * * * of all commodity interest accounts carried * * * and all other activities * * * relating to its business as a Commission registrant." Thus, any procedures adopted to meet the above criteria to be deemed to be "non-affiliated" must be consistent with the applicant's duty diligently to supervise. Moreover, any determination to treat such entities as unaffiliated is based on the representations of the applicant and is limited in application to this exemption. Such a finding in no way affects the entities' responsibilities and obligations under the Act and Commission rules.

By adding this provision the Commission has broadened the approach of the proposed rule by permitting evidence to counter the presumption that affiliated account controllers *per se* lack independence. However, the Commission remains convinced that the lack of affiliation is an important criterion in establishing independence and that affiliates bear a heavy burden in otherwise demonstrating their independence. Moreover, applicants must demonstrate that they remain able to discharge their duty under Commission Rule 166.3 to supervise their employees in light of the arrangements and procedures they have adopted to provide affiliated controllers with the independence necessary to qualify for this exemption. Accordingly, the rule, as adopted, permits applicants to rebut the presumption that their affiliates are not independent and therefore do not qualify for this exemption. It should be clear, however, that the burden is a rigorous one and is borne by the applicant.

3. Applicability of Exemption to the Spot Month

Several of the commenters objected to the exemption's inapplicability to positions held during the spot month. These commenters opined that unless the exemption applied to positions in the spot month, many exempt entities would be required to maintain costly internal administrative procedures. This, they maintained, would lessen the benefit of the rule, or possibly compromise the independence of traders by requiring a third party to direct traders to reduce spot-month positions. Others contended that the provision would result in independent account controllers not being able to trade efficiently. One commenter suggested that the Commission's position should be modified at least with respect to contracts which are cash settled.

[9] *See* 53 FR 609, 611 (January 11, 1988).

The Commission has traditionally taken a cautious approach with regard to spot-month speculative position limits. In proposing that the exemption apply to positions outside of the spot month, the Commission was mindful that specific spot-month limits are provided in order to alleviate concerns regarding congestion and other problems attendant to the shortages of deliverable supplies at the expiration of the contract. However, the Commission notes that the absence of position limits for individual trading months indicates the absence of these regulatory concerns in some cases such as certain financial futures which are cash settled or physical delivery contracts with very broad deliverable supplies (*e.g.*, foreign currencies). Accordingly, the Commission has determined to modify this requirement. The rule, as adopted, provides that the exemption shall apply in the spot month for those contracts which do not have individual month speculative position limits.[10] By permitting the exemption to apply in the spot month for those contracts, the Commission will have an opportunity to study this issue further based upon actual trading experience. Accordingly, the Commission has determined to revisit this issue by the end of calendar year 1989 in conjunction with its review of the potential broadened scope of eligibility for the exemption.

4. Partial Exemptions

Several commenters suggested that the Commission clarify whether the exemption would be available to a commodity pool operator or other entity which had both independent account controllers and affiliated employees controlling trading for the pool. Under these rules, applicants must provide documentation for each independent account controller for which an exemption is claimed and must specify the particular contract markets for which the exemption is sought. The intent of the rules as proposed was to permit the applicant to obtain exemptions beyond the speculative position limits for the additional positions of independent account controllers. Thus, nothing in the rules would bar the pool operator from itself controlling positions up to the applicable speculative position limits through the use of a variety of affiliated traders while filing for exemption for its independent account controllers.

As the Commission noted in the Notice of Proposed Rulemaking, it may condition its approval to specific contract markets or to a specified overall level. Accordingly, the Commission may deny an application for exemption for a particular contract market where the Commission determines that the contract market is too illiquid or otherwise constrained to grant the application. Moreover, were a commodity pool operator or other eligible entity to seek approval for multiple independent account controllers which caused the Commission concerns because of the potential size of the overall positions, the Commission could grant the applicant commodity pool operator exemption for some fraction of the amount of contracts for which the exemption was being sought.

5. Application Process

Several commenters suggested that the application should be self-executing and that the Commission should not review and approve each application. They contended that such an approval process is unnecessary and administratively burdensome. Other commenters, however, suggested that the number of such applications should not be voluminous and supported the Commission's determination to review applications on a case-by-case basis. More importantly, the issues concerning control of trading are dependent upon the circumstances of each individual case. This is especially true in light of the Commission's determination to permit employees or other affiliates to demonstrate that specific conditions and procedures exist to rebut the presumption that affiliated account controllers do not possess the requisite independence to qualify for this exemption. That is not to say, however, that a self-executing application procedure could never be instituted; however, the Commission believes that a more cautious approach is warranted at this time. Accordingly, the Commission is adopting the final rules as proposed and will review all applications, making an individual determination with regard to each application filed.[11]

One commenter suggested that the Disclosure Documents required of registered commodity pool operators under Commission Rule 4.21 be substituted for the application required under the proposed rules. However, not all entities who are eligible for the exemption are required to file such Disclosure Documents. For example, entities eligible for the exemption include those which are exempt from commodity pool operator registration by virtue of an exclusion from the commodity pool operator definition under Commission Rule 4.5. Moreover, in order to aid the processing of these exemptions on a timely basis, the Commission believes that a uniform format for the application is desirable. Accordingly, the Commission is requiring that the application be in the form proposed. Nevertheless, commodity pool operators filing Disclosure Documents under Commission Rule 4.22 may include such Disclosure Documents as part of the application, making reference to the appropriate pages in the Disclosure Documents which fulfill any of the documentation requirements of these rules.[12]

One commenter pointed out that the proposed rules did not provide specific procedures to be followed in applying for this exemption. For example, the Commission did not specify when such applications should be filed. Several commenters suggested that since the initial Disclosure Document required of commodity pool operators must be filed twenty-one days before its use, applications for this exemption should be required to be filed at the same time.

The suggestion that the application for exemption for independent account controllers be filed at the same time as the pool's initial disclosure document has merit. However, although the Commission would expect many commodity pools to follow this practice, it has determined not to adopt it as a procedural requirement. First, as noted above, entities exempt from commodity pool registration by virtue of a definitional exclusion also may apply for this exemption. Second, some applicants may wish to file an application for exemption at a time slightly in advance of, or following, the

[10] This modification of the exemption has no immediate impact on its application in those commodities with Federal speculative position limits since Commission rules specify individual trading month limits for all such contracts. However, exchange-set speculative position limits for some contract markets do not specify limits for individual trading months during contract expiration and in those cases exchanges would be permitted, in adopting exemptions similar to the Commission's, to apply the exemption in this manner.

[11] One commenter noted that with respect to the requirement that affidavits be used, 28 U.S.C. 1746 permits the filing of declarations whenever an affidavit is required. Clearly, applicants are free to make use of declarations when filing their applications with the Commission.

[12] In this regard, a commenter suggested that documents equivalent to certain of the requirements of the application are generally included as exhibits to registration statements filed with the Securities and Exchange Commission for publicly-offered pools. Of course, these also can be submitted to fulfill these requirements.

filing of the Disclosure Document. In this regard, a commenter suggested that if the Commission fails to act upon an application within the twenty-one day period discussed above the exemption should become effective automatically. The Commission disagrees. In those cases where particular aspects of an application for exemption raise questions needing further clarification, so that the approval process is delayed, an automatic exemption would be inappropriate. Accordingly, the Commission believes that until it gains experience with the processing of these applications, it is not advisable to provide for such applications to become effective automatically.[13]

Finally, one commenter suggested that the standard of review for applications was unclear. In this commenter's view, a determination on the application should be limited to whether or not the application was complete. As the Commission noted above, it may approve applications with conditions as well as disapprove such applications. Accordingly, the Commission, in reviewing applications, will be guided by the overall policies and purposes of the Act and of section 4a of the Act in particular. The Commission will review applications to determine whether, on their face, the applicant has carried the burden of demonstrating the independence of its account controllers. The Commission will then take into consideration whether there is any other reason why the application should not be granted or approved upon conditions. As noted in the proposed rules, a denial or approval upon conditions of applications for exemption will be accompanied by a brief statement of the grounds of denial or conditions.

6. Guideline to the Exchanges

The Commission in its Notice of Proposed Rulemaking requested comment regarding whether there should be any modifications to this exemption when applied by the exchanges in the context of their speculative position limits. The Commission received no specific responses to this request. Moreover, two exchanges submitted for approval under section 5a(12) of the Act rules providing for exemptions from their speculative position limit rules similar to the one being adopted herein. These exchange exemptions were submitted pursuant to Commission Rule 1.61(e), 17 CFR 1.61(e). The Commission, after reviewing these proposed exchange rules, approved them under section 5a(12) of the Act on August 17, 1988. Accordingly, with the exception of the applicability of the exemption during the spot month for those contracts without individual month speculative position limits, there appears no need for exchange deviation from these final rules nor for any additional guidance to the exchanges beyond the template provided herein.

B. Spread Exemptions

The Commission received three comments with regard to the proposed rules for spread exemptions. Two were supportive. One commenter, a futures exchange, while supporting the concept of the futures/futures spread exemption argued that the limitation on the exemption, twice the current outright position limit, is not large enough. That commenter suggested that "a level larger than two times the outright position limit would enhance the ability of individuals to supply speculative capital in times of demand."

In proposing this limitation on the exemption, the Commission stated that

> in arriving at this configuration of the proposed spread exemption, the Commission has taken into consideration the number of such spread positions which are potentially constrained by the current limits. Further, the Commission believes that this level of exemptions in individual months will assure that such positions will not become unusually large and thereby pose a potential for disruption of the market. Of course, it should be noted that in proposing this level the Commission has taken into consideration recent revisions to individual speculative position limit levels.

53 FR at 23412–23413.

The Commission remains convinced of the appropriateness of this level for the exemption and is adopting the final rule as proposed.

With regard to the futures/option exemption, the commenter questioned the need for the rule. The commenter noted that "no traders have seen fit to avail themselves of this exemption * * *." Nevertheless, the commenter further contended that the effect of the adoption of this rule would be disruptive to the markets due to its "telescoping feature."

The Commission disagrees that adoption of this rule will be disruptive. As the Commission noted in its Notice of Proposed Rulemaking, the use of a futures/option spread to evade spot-month speculative position limits was made possible by the liberalization of the futures/option exemption. This rule simply clarifies the common understanding that the spot-month speculative position limits for these commodities is absolute. As the commenter has noted, no trader has yet attempted to make use of this apparent loophole. Accordingly, the Commission believes that adopting this rule should have no impact on trading in the market.

IV. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* requires that agencies, in proposing rules, consider the impact of these rules on small businesses. The Commission has previously determined that contract markets and "large traders" are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These rules are exemptions from limits on the size of speculative positions which typically may be held by the largest traders in these markets. Accordingly, as promulgated, these rules would not have a significant economic impact on a substantial number of small entities. Moreover, the Commission invited comments from any firms or other persons which believed that the promulgation of these rules might have a significant impact upon their activities. No such comments were received. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

B. The Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* ("PRA"), imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget ("OMB"). OMB approved the collection of information associated with the rule on June 3, 1988 and assigned OMB control No. 3038–0013 to the rule.

Copies of the OMB approved information collection package

[13] Although the Commission has determined not to adopt the suggestion that it require that its decision on an application be made within a twenty-one day notice period, the Commission nevertheless will instruct its staff, for those applications identified as being filed in conjunction with the filing of an initial disclosure document under Commission Rule 4.21, to endeavor to make the necessary determinations within the twenty-one day period. However, more complex applications for exemption may take a longer period for a determination, and those applying for an exemption may consult with staff on issues which may be raised by their application in advance of the filing of such an application.

associated with this rule may be obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503 (202) 395–7340.

List of Subjects in 17 CFR Part 150

Aggregation of accounts, Agricultural commodities, Exemption from speculative position limits, Position limits.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular sections 2(a)(11), 4a and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j), 6a, 12a(5), the Commodity Futures Trading Commission hereby proposes to amend Part 150 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 150—LIMITS ON POSITIONS

1. The authority citation for Part 150 continues to read as follows:

Authority: 7 U.S.C. 6a and 12a(5)(1982).

2. Section 150.1 is amended by adding a paragraph (d) to read as follows:

§ 150.1 Definitions.

As used in this part—

* * * * *

(d) An "independent account controller" means a person—

(1) Who specifically is authorized by a commodity pool operator, or the operator of a trading vehicle which is excluded, or which has qualified for exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter, independently to control trading decisions on behalf of, but without the day-to-day direction of, such commodity pool operator or excluded person;

(2) Over whose trading the commodity pool operator or excluded person maintains only such minimum control as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf;

(3) Who is unaffiliated with, and trades independently of, the commodity pool operator or excluded person on whose behalf the trading is done and of any other independent controller trading for that commodity pool operator or excluded person; and

(4) Who is registered as a futures commission merchant, introducing broker, commodity trading advisor, or as an associated person of any such registrant.

3. Section 150.3 is revised to read as follows:

§ 150.3 Exemptions.

(a) Positions which may exceed limits. The position limits set forth in § 150.2 of this part may be exceeded to the extent such position are:

(1) *Bona fide* hedging transactions as defined in § 1.3(z) of this chapter;

(2) Spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity, for positions outside of the spot month, which are as a totality offsetting, and upon such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this chapter;

(3) Spread or arbitrage positions between single months of a futures contract traded on the same board of trade outside of the spot month, in the same crop year; *provided however,* that such spread or arbitrage positions, when combined with any outright positions in the single month, do not exceed twice the single-month position limit for the futures contract set forth in § 150.2 of this part; or

(4) Carried for a commodity pool operator, or the operator of a trading vehicle which is excluded, or which has qualified for exclusion from, the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this Chapter, in the separate account or accounts of an independent account controller which has been approved by the Commission under paragraph (b) of this section, and are not in the spot month if there is a position limit which applies to individual trading months during their expiration; *Provided however,* that the overall positions held or controlled by each such independent account controller may not exceed the limits specified in § 150.2 of this part.

(b) Application for Exemption of Independent Account Controllers. Any commodity pool operator or the operator of a trading vehicle which is excluded, or which has qualified for exclusion, from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter, who directly or indirectly holds but does not control positions in contract markets having speculative position limits set forth in § 150.2 of this part, may file with the Commission an application for exemption from those limits for the positions controlled by an independent account controller.

(1) *Filing the application.* Such applications shall be made to the Commission's Washington Office, Attention: Division of Economic Anlaysis, unless otherwise directed by the Commission or its delegee, and must include the following:

(i) An affidavit, duly notarized, of the applicant identifying each independent account controller and stating that each named independent account controller has been delegated authority to trade the account without further, specific day-to-day direction of trading decisions and that the applicant maintains only such minimum control as is necessary to fulfill its fiduciary responsibilities and its duty to supervise diligently the trading by the independent account controllers. If the applicant is an organization, the affidavit must be that of a partner, officer or trustee authorized by the organization to bind the organization;

(ii) An affidavit, duly notarized, of each independent account controller certifying that the controller in fact exercises authority with respect to directing the trading of the account, is unaffiliated with the applicant or any other independent account controller of the applicant, and does not have knowledge of trading decisions by any other account controller; or

(A) If affiliated, the circumstances of the affiliation that demonstrate why the account controller nevertheless is, in fact, sufficiently independent to be treated as unaffiliated for purposes of this section. In the case of such account controllers which are affiliated, the affidavits shall contain a description of the written procedures in place to preclude such account controllers from gaining access to, or receiving data about, trades of other account controllers, including a description of document routing procedures, the physical location of such account controllers and other procedures or security arrangements which would maintain the independence of their activities. In addition, the affidavits concerning such account controllers which are affiliated shall certify that such trading has been solicited by a separate Disclosure Document that meets the standards of § 4.21 of this chapter and has been separately marketed from that of the applicant; and

(iii) Documents supporting the above affidavits including:

(A) A list of the contract markets having speculative position limits in § 150.2 of this part for which the exemption is requested;

(B) A binding power of attorney or other such binding grant of authority memorializing the relationship between the applicant and each independent account controller;

(C) Proof of registration with the Commission of each independent account controller or a list of each such person's category of registration,

registration identification number, effective date of registration and name of the registrant if different from that on the application;

(D) Account opening documents verifying that the independent account controller maintains a separate account for such trading;

(E) Updated Form 40s of the independent account controller and owner, as required by § 18.04 of this Chapter, unless such forms have been filed with the Commission under separate cover; and

(F) Any additional information required by the Commission which, in light of the circumstances of the application, appears necessary to demonstrate the nature of the relationship between the owner and independent account controller.

(2) *Approval of Application for Exemption for Independent Account Controllers.* The Commission may remit and not accept for filing incomplete applications. In its discretion, based upon the application and any other relevant factors, the Commission may approve, deny or approve upon conditions applications for exemptions from the speculative position limits set forth in § 150.2 of this part. Commission denial or approval upon conditions of such an application for exemption shall be accompanied by a brief statement of the grounds for denial or imposition of conditions. Commission approval of such an application may be withdrawn or modified at any time. Withdrawal or modification of a previously granted approval of such an exemption shall be accompanied by a brief statement of the grounds for withdrawal or modification.

(3) *Supplementation and updating of applications.* To remain valid, applications must be supplemented or updated:

(i) Ten days prior to changes in independent account controllers, the ownership or control of the accounts, or the registration status of the account owners or independent account controllers;

(ii) Within ten days of any other material change in the application; or

(iii) Within such time as may be specified by the Commission upon special call by the Commission to the applicant.

(4) *Delegation of Authority.* (i) The Commodity Futures Trading Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Economic Analysis or the Director's delegee the authority to remit and not accept for filing incomplete applications, to approve, deny, approve upon conditions, withdraw approval or modify applications for exemption filed under § 150.3 of this part, and to issue special calls to supplement and update such applications.

(ii) The Director of the Division of Economic Analysis may submit any matter which has been delegated to the Director under paragraph (b)(4)(i) of this section to the Commission for its consideration.

(iii) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated to the Director of the Division of Economic Analysis under paragraph (b)(4)(i) of this section.

Issued in Washington, DC, this 18th day of October 1988, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-24472 Filed 10-21-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 627, 628, 629, 630, and 631

Job Training Partnership Act; Economic Dislocation and Worker Adjustment Assistance Act; Employment Training Services to Dislocated Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: The Department of Labor is issuing interim final regulations with a request for comments to implement provisions of the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), which amends portions of the Job Training Partnership Act (JTPA) and substitutes a completely new Title III. EDWAA was enacted as Subtitle D of Title VI of the Omnibus Trade and Competitiveness Act of 1988. JTPA Title III establishes programs of employment and training assistance for dislocated workers. These interim final regulations comply with the statutory requirement that regulations be published by November 1, 1988. At the same time, they provide the opportunity for comment. All implementation actions which must be completed prior to the publication of final regulations should be consistent with these regulations. Modification of the JTPA regulations is necessary to incorporate the revisions contained in the amended legislation.

DATES: *Effective Date:* November 1, 1988.

Comments: Written comments on the interim final rule are invited. Comments will only be accepted on those portions of the regulations which are affected by these changes. Comments must be received on or before November 23, 1988.

ADDRESS: Written comments shall be mailed to the Assistant Secretary for Employment and Training, Department of Labor, Room N4703, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs. Commenters wishing acknowledgement of receipt of their comments must submit them by certified mail, return receipt requested.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs. Telephone: (202) 535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On August 23, 1988, the Omnibus Trade and Competitiveness Act, including Title VI, Subtitle D, the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), was enacted. (Pub. L. 100-418, 102 Stat. 1107.) Existing provisions of Title III of the Job Training Partnership Act were replaced by EDWAA.

Rulemaking History

On October 13, 1982, the President signed the Job Training Partnership Act, Pub. L. 97-300 (JTPA or the Act).

It is the purpose of the Act to establish programs to prepare youth and unskilled adults for entry into the labor force; and to afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment.

Title I of the Act sets forth general requirements for programs under the Act, as well as some requirements for State operation of programs under the Act. Title II of the Act provides requirements for State operation of adult and youth programs under the Act. Title III of the Act provides for operation of State programs of employment and training assistance for dislocated workers. Title IV provides requirements for special programs for targeted groups, such as Native Americans and migrant farmworkers; as well as for the Job Corps, veterans and other specialized programs.

Amendments to JTPA were enacted in the Job Training Partnership Act

Amendments, Pub. L. 97–404 (December 31, 1982); the Carl D. Perkins Vocational Education Act, Pub. L. 98–524 (October 19, 1984); the Job Training Partnership Act Amendments of 1986, Pub. L. 99–496 (October 16, 1986); and the Homeless Eligibility Clarification Act, Title XI of the Anti-Drug Abuse Act of 1986, Pub. L. 99–570 (October 27, 1986). See also Section 713(b) of Pub. L. 99–159, National Science, Engineering, and Mathematics Authorization Act of 1986, which contains technical amendments to the Carl D. Perkins Vocational Education Act which, in turn, amend JTPA.

Final regulations promulgated by the Department of Labor (the Department or DOL) to implement the provisions of the Act were published in the **Federal Register** at 48 FR 11078 (March 15, 1983); 48 FR 48753 (October 20, 1983); 48 FR 49198 (October 24, 1983); and 48 FR 52438 (November 18, 1983). See 20 CFR Parts 626–636 and 684 (1988).

These regulations have been amended by **Federal Register** publication on three additional occasions: on April 26, 1985, at 50 FR 16473, as corrected on June 13, 1985, at 50 FR 24764; on August 29, 1986, at 51 FR 30856; and on February 12, 1988 at 53 FR 4262.

Discussion of Interim Final Rule

The Department of Labor is issuing interim final regulations with a request for comments to implement provisions of the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), which amends portions of the Job Training Partnership Act (JTPA) and substitutes a completely new Title III. EDWAA was enacted as Subtitle D of Title VI of the Omnibus Trade and Competitiveness Act (OTCA) of 1988. JTPA Title III establishes programs of employment and training assistance for dislocated workers. These interim final regulations comply with the statutory requirement that regulations be published by November 1, 1988. At the same time, they provide the opportunity for comment. All implementation actions which must be completed prior to the publication of final regulations should be consistent with these regulations. Modification of the JTPA regulations is necessary to incorporate the revisions contained in the amended legislation.

It is important to note that the provisions of EDWAA related to employment and training assistance for dislocated workers and other changes were enacted as amendments to the Job Training Partnership Act. Thus, as is the case with existing regulations, provisions of the JTPA regulations in Parts 626, 627, 628, and 629 which apply generally to JTPA programs including Title III, or which apply specifically to Title III are applicable to the amended Title III program unless revised herein. In numerous cases, as reflected in the following interim final regulations, it has been necessary to revise sections of the existing regulations particularly in Parts 626, 627, 628, and 629 to reflect provisions of the new legislation.

It is the Department's intent in developing these regulations to provide substantial responsibility and discretion to States in developing policy and implementing procedures for this new legislation. Thus, in many instances in these regulations, responsibility for certain decisions is vested in the State or in substate areas.

It is the Department's plan to separately issue reporting instructions and instructions for establishing and adjusting Title III performance standards. Both sets of instructions will be published as notices for comment in the **Federal Register**. Copies will be made available to States by issuance of Training and Employment Information Notices (TEINs).

In publishing the interim final rule, certain JTPA general regulatory provisions of Parts 628 and 629 have been revised to reflect their applicability or non-applicability to EDWAA programs, including additions where necessary to correspond to the provisions of the new Part 631. These changes are summarized below. Statutory citations to JTPA also have been incorporated throughout the various sections of these parts.

Section 626.4 includes an expanded definition of "substate grantee" to indicate that the substate grantee is the entity that receives Title III funds for a substate area directly from the Governor.

Section 627.4, which deals with the establishment and responsibilities of the State Job Training Coordinating Council (SJTCC), has been revised by adding a reference to section 317 of the Act. This section of the Act contains the new responsibilities of the SJTCC for Title III programs.

In addition, EDWAA amends section 122(a)(3) of the Act to establish a new membership composition for the SJTCC. The membership is to be composed of 30 percent business and industry representatives, 30 percent State and local government and local education representatives, 30 percent organized labor and community-based organization representatives, and 10 percent representation from the general public. In a case in which the substate area is a State, Governors are expected to consider the new composition and responsibilities of the SJTCC where such council, or portion thereof, is being reconstituted to form the private industry council.

Section 628.2 has been revised to add two new paragraphs (d) and (e) which reflect the private industry councils' participation in the designation of substate grantees and their role in reviewing substate plans under Title III.

Section 629.1(e) has been changed to incorporate a new reference to 29 CFR Part 97 which supercedes 41 CFR Part 29–70.

Section 629.3 has been revised to indicate that the nondiscrimination provisions in section 167 of the Act and the prohibition regarding sectarian activities in section 167(a) of the Act apply to Title III substate grantees.

A new § 629.4 has been added to set forth in the regulations certain labor standards of particular significance to Title III programs and which reflect concerns raised in the enactment of EDWAA. These provisions prohibit assistance in the relocation of establishments when such relocation will result in an increase in unemployment in the original location or any other area, and the displacement of employees by participants.

Section 629.21(a) has been revised to indicate that the needs-based payment provisions apply only to Title II. Similar provisions that apply to Title III are contained at § 631.20.

Section 629.33 has been revised to indicate that the insurance provisions apply to Title III substate grantees.

Section 629.35(e) has been amended to indicate that the period of records retention for all JTPA records is three years from the last date authorized for expenditure of funds allotted to a State for a given program year, as set forth at section 161(b) of JTPA. This amendment is necessary to ensure that such records exist and are available for the purposes of JTPA audits.

Section 629.36 has been revised to indicate that the semiannual reporting provisions of this section apply only to Titles I and II. The reporting provisions that apply to Title III are set forth at § 631.15.

Section 629.37(b) has been changed to incorporate a new reference to 29 CFR Part 97 which supercedes 41 CFR Part 29–70.

Section 629.38 has been changed to indicate that the classification of costs provisions of this section no longer apply to Title III except for the provisions of § 629.38(e)(2). The provisions that apply to Title III in this regard are set forth at § 631.13.

Section 629.39 has been changed to indicate that the provisions of this section on limitations on certain costs no longer apply to Title III programs. The provisions that apply to Title III in this regard are set forth in § 631.14.

Section 629.40 has been changed to reflect that there is no matching requirement for Title III, as amended by EDWAA.

Section 629.42 has been changed to indicate that the audit provisions of this section also apply to Title III substate grantees.

Section 629.44 has been changed to indicate that the sanctions for violations of the Act provisions of this section also apply to Title III substate grantees.

Section 629.46 has been changed to indicate that the performance standards provisions of this section apply to Title III, except that the provisions of paragraph (c)(2) of this section pertaining to the imposition of a reorganization plan for failure to meet performance standards for two consecutive years does not apply to Title III. The Department will issue, in advance of each program year, guidance on specific values for required standards.

In addition, the provisions of Part 629, Subpart D, "Grievances, Investigations, and Hearings," apply to Title III of JTPA. The provisions of various sections of this subpart have been changed to indicate that where provisions apply to SDA grant recipients, they also apply to Title III substate grantees.

In addition to revisions and additions to administrative provisions, these regulations contain a revised Part 631, which will replace all of existing Part 631 for programs beginning July 1, 1989. Following is a brief discussion of revised Part 631.

Scope and Purpose

Section 631.1 reflects the mandate of EDWAA to establish a new worker readjustment program serving dislocated workers as part of the overall effort to increase American workers' skills, thereby improving American competitiveness into the 21st Century.

The new program seeks to establish an early readjustment capacity for workers and firms in each State; to provide comprehensive coverage to workers regardless of the cause of dislocation; to provide early referral from the unemployment insurance system to adjustment services as an integral part of the adjustment process; to foster labor, management and community partnerships with government in addressing worker dislocation; to emphasize retraining and reemployment services rather than income support; to create an ongoing substate capacity to deliver adjustment services; to tailor services to meet the needs of individuals; to improve accountability by establishing a system of mandated performance standards; to improve financial management by monitoring expenditures and reallotting available funds; and to provide the flexibility to target funds to the most critical dislocation problems.

Definitions

In addition to definitions contained in sections 4, 301, and 303(e) of the Act, as amended, and § 626.4 of the JTPA regulations, an additional definition is added at § 631.2 for "substantial layoff." This new definition is based upon the definition of "mass layoff" as contained in the recently enacted Worker Adjustment and Retraining Notification Act, Pub. L. 100-379, 102 Stat. 890 (August 4, 1988).

Participant Eligibility

Section 631.3 sets forth participant eligibility criteria for Title III, including regulations required by section 301(a)(1)(D) of the Act, regarding economic conditions and natural disasters under which self-employed individuals are eligible for employment and training assistance. Certain sections which provided guidance on the eligibility of self-employed individuals have been eliminated in order to shorten and simplify these regulations.

This section also indicates that services will be provided to displaced homemakers under Title III only if the Governor determines that the services may be provided without adversely affecting the delivery of services to eligible dislocated workers. Services provided to displaced homemakers should be part of ongoing programs and activities authorized under Title III and not separate and discrete programs.

Section 631.3 also sets forth the eligibility criteria for workers issued a certificate of continuing eligibility and the conditions of eligibility for dislocated workers not issued such certificates.

Approved Training Rule

Section 631.4 provides that participation by an eligible individual in a program authorized under Title III of the Act or Part 631 is deemed to be acceptance of training with the approval of the State for the purposes of other Federal law relating to unemployment benefits.

Allotment and Reallotment of Funds by the Secretary

Section 631.11 provides for allotment of funds to States and to the Commonwealth of the Northern Mariana Islands and other territories and possessions of the United States.

Section 631.12 provides for reallotment of unexpended funds. The revised Title III provides that the limitation on carryover of funds shall apply to the program year beginning July 1, 1988, but for that year only the amount available for reallotment is the amount equal to the amount by which the unexpended balance of the State formula allotment at the end of the program year exceeds 30 percent of the formula allotment. Thereafter, the amount will be the amount which exceeds 20 percent.

Classification of Costs at State and Substate Levels

Section 631.13 provides that for the new Title III program, all costs shall be charged against one of the allowable cost categories. These categories apply only to the Title III program which becomes effective on July 1, 1989. In the rapid response category, staff-related costs are chargeable only to the extent that staff are engaged in rapid response activities; all other costs charged to this category must be solely for rapid response activities. This section also describes activities chargeable to administration.

Limitations on Certain Costs

Section 631.14 describes cost limitations applicable to Title III. The Governor is required to prescribe criteria under which substate grantees may apply for a waiver to expend less than 50 percent (but not less than 30 percent) of substate funds for training.

Note that provisions of § 629.39 have been revised to delete all references to Title III.

Federal Reporting Requirements

Section 631.15 describes reporting requirements applicable to Title III. In order to comply with new statutory requirements regarding federal oversight and mandatory reallotment, quarterly financial reporting will be required for the first two program years. More frequent data collection will result in a reduced need for actual reallotment in the initial years of the program.

Complaints, Investigations and Penalties

Section 631.16 provides, in accordance with the amended Title III, for investigation of complaints and for

remedies in instances in which it is determined that the State plan is not followed.

Federal by-pass Authority

Section 631.18 describes the authority and the responsibilities of the Secretary in the exercise of Federal by-pass authority.

Appeals

Section 631.19 describes the appeal provisions for activities under Title III. Decisions on the designation of Title III substate grantees are not appealable to the Secretary.

Needs-related Payments

Section 631.20 both provides eligibility criteria for and establishes maximum weekly amounts for needs-related payments. Eligibility criteria address both workers who qualify for unemployment insurance and workers who do not qualify. Needs-related payments will be made only in accordance with the State or substate plan and within cost limitations established at § 631.14.

State Dislocated Worker Unit

Section 631.30 provides for the designation or creation and functions of the State dislocated worker unit or office. While the regulations outline the activities of the State unit, the effective functioning of such an office is seen by the Department as the key element in a successful State employment and training program for dislocated workers. Provision of rapid response is a major element in the overall responsibilities of this office, but key to the overall functioning of a successful program will be the authority and responsibility to effectively coordinate services to affected workers, arranging for immediate services and providing technical assistance to substate grantees.

An important responsibility of the office will be the development and maintenance of contacts with employee groups and the employer community, particularly employers in industries or locations which may be vulnerable to employment loss. Close liaison with employee groups, employer organizations, chambers of commerce, State and local economic development agencies, private industry councils, veterans' service organizations and related organizations is essential.

In instances in which a dislocation event occurs, the office must have the capability to quickly approach the affected employer and workers and offer initial services, including assistance in the establishment of labor-management committees.

It is essential that among the staff of such an office, there be individuals with experience and credibility in the employer and employee communities who can effectively work with employers and employees in difficult situations.

Monitoring and Oversight

Section 631.31 provides that the Governor is responsible for oversight of substate grantee activities. This is viewed as an important function to assure that substate programs are operated in accordance with the Act, regulations, State plans and State guidance.

Allocation of Funds by the Governor

Section 631.32 provides for allocation of funds to substate areas by the Governor. As provided in the amended legislation, the Governor shall prescribe the formula for substate planning allocations. Not less than 50 percent of the State allotment must be allocated by formula. The formula must use information on all six areas specified in § 631.32(b)(1) and may add other elements as the State deems necessary and appropriate. The weight to be assigned to each element, be it a mandatory element or an element developed by the State, is to be determined by the Governor. If data already exist that reflect the formula needs, new data need not be collected to meet the requirements of this provision.

This section also provides that the Governor may reserve up to 40 percent of the State allotment for State activities and for discretionary allocation to substate grantees. An additional 10 percent of the State allotment may be reserved, to be allocated among substate grantees on the basis of need during the first nine months of the program year.

State Procedures for Identifying Funds Subject to Mandatory Federal Reallotment

Section 631.33 provides that the Governor must establish procedures identifying funds subject to mandatory reallotment. Such procedures may not exempt either State or substate funds from such consideration.

Designation of Substate Areas

Section 631.34 provides for designation of substate areas. The Act provides that the Governor must designate as a substate area any JTPA service delivery area (SDA) with a population of 200,000 or more and any concentrated employment program grantee. The Governor must also designate any two or more contiguous SDAs that in aggregate have a population of 200,000 or more and that request designation unless the Governor determines that such a designation would be consistent with the effective delivery of services or would be otherwise inappropriate.

Designation of Substate Grantees

Section 631.35 provides for designation of substate grantees. Substate grantees will be selected through negotiations among the Governor, the Private Industry Council, and the local elected official. The regulations provide that when a substate area is represented by more than one elected official or PIC, they shall designate representatives who shall negotiate together with the Governor an agreement on designation of substate grantees. If, and only if, an agreement cannot be reached, the Governor will select the substate grantee. Decisions made on the designation of substate grantees are not matters appealable to the Secretary, in the same way that decisions on the designation of SDA grant recipients and administrative entities are not appealable to the Secretary.

Biennial State Plan

Section 631.36 provides for a biennial State plan which shall be developed in accordance with instructions issued by the Secretary. In accordance with § 631.70(c) the initial plan shall be for a period of one year. The initial plan shall then be modified to incorporate sections applicable for the subsequent biennial period.

Coordination Activities

Section 631.37 describes the types of agencies and organizations with which the dislocated worker unit or office is to exchange information and coordinate programs, activities and services. Coordination and effective use of information and services between programs is essential to effective and successful program administration.

State By-pass Authority

Section 631.38 describes the authority and responsibility of the Governor in the exercise of State by-pass authority.

State Program Operational Plan

Section 631.40 provides for submission biennially of a State program operational plan which describes the activities, programs and projects to be accomplished with funds reserved by the Governor. It is envisioned that this

will be a detailed operational plan and will contain specific activities and projects.

Allowable State Activities

Section 631.41 describes activities and services upon which funds reserved by the Governor may be expended.

Substate Plan

Section 631.50 describes procedures for development and submission of substate plans, for review and comment on such plans by the SJTCC, review and approval by the Governor, and for appeals in the event of disapproval. Substate plans are submitted to the Governor and appeals are submitted to the Secretary, except in the case where the substate area is the State. In this instance, such plans are submitted to the Secretary and appeals of disapproval in whole or in part are submitted to DOL's Office of Administrative Law Judges.

Allowable Substate Program Activities

Section 631.51 describes activities and services upon which funds allocated to a substate area may be expended.

Selection of Service Providers

Section 631.52 indicates that the substate grantee has the responsibility for providing authorized Title III services within the substate area, pursuant to the approved plan. The substate grantee may provide such services directly or may select service providers to do so.

Certificates of Continuing Eligibility

Section 631.53 provides for alternative methods by which substate grantees may provide retraining services through issuance of certificates of continuing eligibility. Such certificates are effective for the period specified in the certificate, not to exceed 104 weeks. It is envisioned that certificates of continuing eligibility may be used in two distinct ways. First, workers may receive a certificate and defer the beginning of retraining services. This will be particularly useful where dislocated workers opt for immediate employment and defer a decision on retraining. Second, workers may use a certificate to obtain their own retaining services through alternative service providers approved by the substate grantee.

Eligibility for dislocated workers not issued such certificates is covered in § 631.3.

Implementation of the Regulations

In accord with section 6305(f) of the OTCA, these regulations are effective on November 1, 1988, and are applicable to Fiscal Year 1989 appropriations and to programs beginning July 1, 1989 and to actions, plans, and procedures required at the Federal, State and substate levels to plan for and implement programs beginning July 1, 1989.

EDWAA specifically provides that funds appropriated for Fiscal Year 1989 or any preceding year may be used for planning and implementation of the EDWAA amendments.

Statutory requirements and regulations previously in effect for Title III continue to apply to pre-Fiscal Year 1989 funds and activities for Program Year 1988 and prior years except to the extent that the Secretary specifically provides for the use of such funds for implementation activities.

Publication as an Interim Rule

This document is published as an interim final rule, with a 30-day comment period. EDWAA was enacted on August 23, 1988. Congress mandated in section 6305(f) of EDWAA that the Secretary of Labor prescribe regulations implementing the statute no later than November 1, 1988. Section 6305(c) EDWAA makes the law's mandated membership changes for the State Job Training Coordinating Councils effective on January 1, 1980; and section 6305(a) of EDWAA makes the law's revision of JTPA Title III effective on July 1, 1989.

Due to the complexity of the task of revising the JTPA Title III regulations, the requirements of the rulemaking review process, the short statutory timeframe for prescription of regulations, and the need to provide JTPA recipients with sufficient advance notice of the new regulations to prepare for implementation in 1989, the Department of Labor for good cause has found, pursuant to 5 U.S.C. 553(a)(B), that publication of a notice of proposed rulemaking for these regulations is impracticable, unnecessary, and contrary to the public interest. On the same bases, the Department has determined, pursuant to 5. U.S.C. 553(d)(3), that there is good cause to publish the interim final rule less than thirty days before its effective date.

Nevertheless, the Department is requesting comments on the interim final rule for thirty days after its publication, and plans to respond to those comments and publish a final rule prior to EDWAA's general effective date of July 1, 1989.

Regulatory Impact

The interim final rule implements certain provisions of the Economic Dislocation and Worker Adjustment Assistance Act. As it would not have the financial or other impact to make it a major rule, preparation of a regulatory impact analysis is unnecessary. See Executive Order No. 12291, 5 U.S.C. 601 note.

The Department of Labor has certified to the Chief Counsel for Advocacy, Small Business Administration, that pursuant to 5 U.S.C. 605(b), the rule would not have a significant economic impact on a substantial number of small entities. No significant economic impact would be imposed by the rule.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act, all new information collection requirements imposed by these regulations will be submitted to the Office of Management and Budget for approval.

Catalog of Federal Domestic Assistance Numbers

These programs are listed in the Catalog of Federal Domestic Assistance at No. 17–246, "Employment and Training Assistance-Dislocated Workers" (JTPA Title III, Programs); and No. 17–250, "Job Training Partnership Act (JTPA)" (JTPA Titles I and II, Programs).

List of Subjects in 20 CFR Parts 626, 627, 628, 629, and 631

Grant programs, Labor, Manpower training programs, Dislocated worker programs.

Interim Final rule

Accordingly, Chapter V of Title 20, Code of Federal Regulations is amended, as follows:

1. Part 626 is revised to read as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.

Authority: 29 U.S.C. 1579(a); Sec. 6305(f), Pub. L. 100–418, 102 Stat. 1107

§ 626.1 Scope and purpose of the Act.

It is the purpose of the Act to:

(a) Establish programs to prepare youth and unskilled adults for entry into the labor force; and

(b) Afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment (section 2).

§ 626.2 Format of these regulations.

(a) Regulations promulgated by the Department of Labor to implement the provisions of the Act are set forth in Parts 626 through 638 of Title 20 of the Code of Federal Regulations, with the exception of Jobs Corps regulations, which are set forth in Part 684 of Title 20.

(b) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the DOL Directorate of Civil Rights.

(c) General authority for the regulations is found at section 169 of the Act. Specific statutory authorities other than section 169 are noted throughout the regulations.

§ 626.3 Table of contents for the regulations under the Job Training Partnership Act.

The table of contents for the regulations under the Job Training Partnership Act, Parts 626–638 and 684, is as follows:

§ 626.4 Definitions.

In addition to the definitions contained in section 4 of the Act, the following definitions apply as appropriate to programs under Titles I, II, and III of the Act.

"Family" shall be defined by the Governor. An adult handicapped individual shall be considered a family of one when applying for programs under the Act (section 4(8)).

"Family income" shall be defined by the Governor, consistent with the definition of family income for other State administered needs-based programs.

"Participant" means any individual who has (a) been determined eligible for participation upon intake; and(b) started receiving employment, training, or services (except post-termination services) funded under the Act following intake. Individuals who receive only outreach and/or intake and initial assessment services or post-program followup are excluded from this definition.

"Recipient" means the Governor.

"SDA grant recipient" means the entity that receives JTPA funds for a service delivery area (SDA) directly from the Governor.

"Substate grantee" means that agency or organization selected to administer programs pursuant to section 312(b) of the Act. The substate grantee is the entity that receives Title III funds for a substate area directly from the Governor.

"Secretary" means the Secretary of Labor or the Secretary's designated representative(s).

"Subrecipient" means any person, organization or other entity which receives JTPA funds either directly or indirectly from the Governor. Depending on local circumstances, the Private Industry Council (PIC), local elected official, or administrative entity may be a subrecipient. SDA grant recipients and Title III substate grantees are particular types of subrecipients.

2. Part 627 is revised to read as follows:

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

Authority: 29 U.S.C. 1579(a); Section 6305(f), Pub. L. 100–418, 102 Stat. 1107.

Subpart A—State Planning Procedures

§ 627.1 Eligible grant recipients.

To establish a continuing relationship under the Act, the Governor and the Secretary shall sign a Governor/Secretary Agreement. The agreement shall consist of a statement assuring that the State shall comply with (a) the Job Training Partnership Act, as amended, and the applicable rules and regulations and (b) the Wagner-Peyser Act, as amended, and all applicable rules and regulations. The agreement shall specify that guidelines, interpretations and definitions adopted by the Governor shall, to the extent that they are consistent with the Act and applicable rules and regulations, be accepted by the Secretary.

§ 627.2 Governor's coordination and special services plan.

(a) *Submittal.* By a date established by the Secretary, any State seeking financial assistance under the Act shall submit to the Secretary a Governor's coordination and special services plan (section 121(a)(2)).

(b) *Plan review.* The Secretary shall review the plan for overall compliance with the provisions of the Act. If the plan is disapproved, the Secretary shall notify the Governor in writing within 30 days of submission of the reasons for disapproval so that the Governor may modify the plan to bring it into compliance with the Act (section 121(d)).

§ 627.3 Funding.

The Secretary will allot funds to the States in accordance with sections 162 and 302 of the Act. The Secretary will obligate such allotments through a Notice of Obligation.

§ 627.4 State job training coordinating council.

(a) The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to section 122 of the Act.

(b) Consistent with section 122(a)(3) of the Act, the SJTCC shall be composed of 30 percent business and industry representatives, 30 percent State and local government and local education agency representatives, 30 percent organized labor and community-based organization representatives, and 10 percent representation from the general public. The SJTCC shall have specific functions and responsibilities outlined in sections 122, 317, and 501 of the Act.

§ 627.5 Interstate agreements.

The Secretary hereby grants authority to the several States to enter into interstate agreements and compacts in accordance with section 127 of the Act.

Subpart B—Statewide Programs

§ 627.21 Distribution of State funds.

(a) The funds made available to the Governor under section 202(b) of the Act shall be used to carry out activities and services in this subpart.

(b) Funds provided to the Governor under section 202(b)(4) of the Act may be used to conduct auditing activities, administrative activities, and other activities described in sections 121 and 122 of the Act (section 202(b)(4)).

§ 627.22 State education coordination and grants.

(a) Expenditures for programs pursuant to section 123(c)(2)(B) of the Act shall be subject to § 629.39(a) of this chapter.

(b) Not less than 75 percent of the funds shall be expended for activities for economically disadvantaged individuals (section 123(c)(3)).

§ 627.23 Training programs for older individuals.

(a) Expenditures for administration and participant support services for programs pursuant to section 124 of the Act shall be subject to § 629.39 of this chapter.

(b) Recipients should coordinate development and delivery of services under section 124 with community service employment programs for older Americans under Title V of the Older Americans Act of 1965, as amended.

§ 627.24 State incentive grants.

(a) Funds available under section 202(b)(3) shall be used by the Governor to provide incentive grants for programs exceeding Title II performance standards established pursuant to section 106 of the Act, including incentives for serving hard-to-serve individuals. Incentive grant funds shall be distributed among SDAs within the State exceeding their performance in an equitable proportion based on the degree by which the SDAs exceed their Title II performance standards. Incentive grant funds made available to an SDA may be used for post-program data collection activities, subject to the provisions of § 629.39(f) of this chapter (section 202(b)(3)(B)).

(b) Funds available under section 202(b)(3) that are not needed for incentive grants shall be used by the Governor to provide technical assistance to SDAs within the State (or to subrecipients in single statewide SDAs). For the purposes of this section, technical assistance means activities directly related to program performance, including preventative technical assistance to enable the State to anticipate program deficiencies and take corrective action. Subject to the provisions of § 629.39(f) of this chapter, funds available for technical assistance may be retained by the Governor and used for post-program data collection activities. Technical assistance funds shall not be expended to support ongoing maintenance of management information systems or other ongoing operational support activities that should be charged to the overall administration of JTPA Title II–A programs (section 106(h)(1)).

3. Part 628 is revised to read as follows:

PART 628—SERVICE DELIVERY AREAS DESIGNATED UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.

Authority: 29 U.S.C. 1579(a), Section 6305(f), Pub. L. 100–418, 102 Stat. 1107.

§ 628.1 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (section 101(a) (1) and (2)).

(b) Pursuant to section 101 of the Act, the Governor shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to section 101(a)(4)(C) of the Act, an entity described in section 101(a)(4)(A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, DC 20210, ATTENTION: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with

regard to determining whether or not the denial is inconsistent with section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (section 101(a)(4)(C)).

§ 628.2 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to section 102 of the Act.

(b) Pursuant to section 103 of the Act, the PIC shall provide policy and program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act, as amended, applicable to the SDA (Wagner-Peyser Act section 8(b)(1)).

(d) The PIC shall be a party to the designation of substate grantees under Title III, as set forth at § 631.35 of this chapter (section 312(b)).

(e) The PIC shall be provided the opportunity to review and comment on a substate grantee plan under Title III of the Act prior to the submission of such plan to the Governor (section 313(a)).

§ 628.3 Selection of SDA grant recipient, administrative entity and service providers.

(a) Pursuant to section 103(b)(1) of the Act, a selection shall be made of the SDA grant recipient and the entity to administer the job training plan for Title II developed pursuant to section 104 of the Act. These may be the same or different entities. The specific functions and responsibilities of these entities shall be spelled out in accordance with the agreement(s) between the PIC and the chief elected official(s), which should specifically address the provisions of section 141(i) of the Act.

(b) Service providers shall be selected in accordance with—

(1) The agreement negotiated pursuant to section 103(b)(1) of the Act, and

(2) The provisions of sections 107 and 205(b)(4) of the Act.

§ 628.4 Job training plan.

The Governor may issue instructions and schedules that will assure that job training plans and plan modifications for SDAs within the State conform to all requirements of the Act.

§ 628.5 Review and approval.

(a)(1) If the Governor disapproves the SDA job training plan or plan modification, the Governor shall notify the PIC and the appropriate chief elected official(s) for the SDA in writing as provided in section 105(b)(2) of the Act.

(2) The Governor shall provide the PIC and the appropriate chief elected official(s) for the SDA 20 days to correct the deficiencies and resubmit the plan or plan modification. The Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) for the SDA of the final disapproval or approval within 15 days after the plan or plan modification was resubmitted.

(b) Pursuant to section 105(b)(2) of the Act, any final disapproval of the job training plan or plan modification may be appealed to the Secretary.

(1) Appeals to the Secretary shall be submitted jointly by the PIC and the appropriate chief elected official(s) for the SDA to the Secretary, U.S. Department of Labor, Washington, DC 20210 ATTENTION: ASET. A copy of the appeal shall be simultaneously provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of the final disapproval from the Governor.

(3) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the disapproval is clearly erroneous within the context of section 105(b)(1) of the Act. The Secretary may consider any comments submitted by the Governor. In accordance with section 105(b)(2) of the Act, the Secretary shall make a final decision within 45 days after the appeal is received.

(c) Pursuant to section 164(b)(1) of the Act, a notice of intent to revoke approval of all or part of a plan may be appealed to the Secretary. Such appeals shall be subject to the terms and conditions of paragraph (b) of this section, except that the revocation shall not become effective until—

(1) The time for appeal has expired, or

(2) The Secretary has issued a decision.

§ 628.6 State SDA submission.

(a) Pursuant to section 105(d) of the Act, when the SDA is the State, the Governor shall, not less that 60 days before the beginning of the first of the two program years covered by the job training plan and in accordance with instructions issued by the Secretary, submit to the Secretary a two-program-year job training plan. When the SDA is the State, modifications to the plan shall be submitted to the Secretary for approval.

(b) The Secretary shall review the plan or plan modification for overall compliance with the provisions of the Act. The State's plan shall be considered approved unless, within 30 days of receipt of the submission described in paragraph (a) of this section, the Secretary notifies the Governor in writing of discrepancies between the submission and specific provisions of the Act. If the plan or plan modification is disapproved, the Governor may appeal the decision by requesting a hearing before an administrative law judge pursuant to § 629.57(c) of this chapter.

4. Part 629 is revised to read as follows:

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—Program Design Requirements

Sec.

Subpart B—Payments, Benefits and Working Conditions

Subpart C—Administrative Standards and Procedures

Subpart D—Grievances, Investigations and Hearings

Authority: 29 U.S.C. 1579(a); Section 6305(f); Pub. L. 100-418, 102 Stat. 1107.

Subpart A—Program Design Requirements

§ 629.1 General program requirements.

(a) The conditions prescribed in sections 141, 142 and 143 of the Act apply to all programs under Titles I, II, and III of the Act, except as provided elsewhere in the Act or this chapter.

(b) Programs operated under Titles I, II, and III of the Act are subject to the provisions of 29 CFR Part 96, which implement the Single Audit Act of 1984, except as provided elsewhere in this chapter.

(c) Recipients shall ensure that an individual enrolled in a JTPA program meets the requirements of section 167(a)(5) of the Act, section 3 of the Military Selective Service Act (50 U.S.C. App. 453) and other requirements applicable to programs funded under the specific section or title of the Act under which the participant is enrolling (section 504).

(d) Recipients shall ensure that individuals are enrolled within 45 days of the date of application or a new application must be taken, except that eligible summer program applicants under Title II-B may be enrolled within 45 days into a summer youth enrollee pool, and no subsequent application need be taken prior to participation.

(e) Programs operated under Titles I, II, and III of the Act are not subject to the provisions of 29 CFR Part 97, except as otherwise explicitly provided in this chapter.

§ 629.2 Public service employment prohibition.

No funds available under Titles I, II-A, or III of the Act may be used for public service employment (sections 141(p) and 314(d)(2)).

§ 629.3 Nondiscrimination and nonsectarian activities.

(a) Recipients, SDA grant recipients, Title III substate grantees and other subrecipients shall comply with the nondiscrimination provisions of section 167 of the Act.

(b) Pursuant to section 167(a) of the Act, the employment or training of participants in sectarian activities is prohibited.

§ 629.4 Labor standards.

(a) No funds may be used to assist in relocating establishments, or parts thereof, from one area to another unless a determination is made that such relocation will not result in an increase in unemployment in the area of original location or in any other area (section 141(c)).

(b) No currently employed worker shall be displaced (including partial displacement) by any participant.

(c) No participant shall be employed or job opening filled—

(1) When any other individual is on layoff from the same or any substantially equivalent job, or

(2) When an employer has terminated any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized by this Act (section 143(b)).

(d) The Secretary will promptly review and take appropriate action with regard to alleged violations of the provisions of paragraphs (a), (b) and (c) of this section, by either direct investigation or referral to the State for action as provided for at § 629.54(b) of this part.

Subpart B—Payments, Benefits and Working Conditions

§ 629.21 Needs-based payments.

(a) Subject to the provisions of sections 108 and 142(a)(1) of the Act and in accordance with a locally developed formula or procedure, payments based on need may be provided to individual participants under Title II in cases where such payments are necessary to enable individuals to participate in a training program funded under the Act (section 204(27)).

(b) Documentation supporting the locally developed formula or procedure for needs-based payments shall be maintained in accordance with instructions from the Governor (section 204(27)).

(c) The formula or procedure shall provide for the maintenance of an individual record of the determination of the need for, and the amount of, any participant's needs-based payment.

§ 629.22 Benefits and working conditions.

(a) Where participants are not covered under a State's workers' compensation law, they shall be provided with adequate on-site medical and accident insurance. Income maintenance coverage is not required for these participants (section 143(a)(3)).

(b) Where participants are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety. Participants employed or trained for inherently dangerous occupations, *e.g.*, fire or police jobs, shall be assigned to work in accordance with reasonable safety practices (section 143(a)(2)).

Subpart C—Administrative Standards and Procedures

§ 629.31 Grant payments.

(a) JTPA grant payments will be made to the Governor in accordance with section 203 of the Intergovernmental Cooperation Act (42 U.S.C. 4213) and Treasury Circular No. 1075 (31 CFR Part 205).

(b) The Governor shall establish procedures that will minimize the time elapsing between the receipt of advanced funds and disbursement. Failure to establish such procedures or to take action to correct deficiencies in—

(1) Financial management systems, or

(2) Fund drawdown and advance payment procedures may result in the Governor being funded through reimbursement by Treasury check payment.

§ 629.32 Program income.

Income generated under any program shall be used to further program objectives and may be retained by that program, unless the Governor requires that such income be turned over to the State. Program income generated under Title II may be used to satisfy the matching requirement of section 123(b) of the Act.

§ 629.33 Insurance.

(a) *General.* Each Governor, SDA grant recipient, Title III substate grantee and subrecipient shall follow its normal insurance procedures except as otherwise indicated in this section.

(b) The DOL assumes no liability with respect to bodily injury, illness or any other damages or losses, or with respect to any claims arising out of any activity under a JTPA grant or agreement whether concerning persons or property in the Governor's, SDA grant recipient's Title III substate grantee's or other subrecipient's organization or any third party.

(c) Governors, SDA grant recipients, Title III substate grantees and subrecipients shall secure insurance coverage for injuries suffered by participants who are not covered by existing workers' compensation. Contributions to a reserve for a self-insurance program, to the extent that the type and extent of coverage and the rates and premiums would have been allowed had insurance been purchased to cover the risks, are allowable and are chargeable to participant support or training for Title II, and to basic readjustment services, retraining services, or needs-related payments and supportive services for Title III, as appropriate (section 143(a)(3)).

§ 629.34 Procurement.

Subject to the provisions of section 107 of the Act, recipients and subrecipients shall administer procurement systems that reflect applicable State and local law, rules and regulations as determined by the Governor.

§ 629.35 Management systems, reporting and recordkeeping.

(a) The Governor shall ensure that financial systems within the State provide fiscal control and accounting procedures sufficient to—

(1) Permit preparation of required reports;

(2) Permit the tracing of funds to a level of expenditure adequate to establish that funds have not been used in violation of the restrictions on the use of such funds; and

(3) Demonstrate compliance with the matching requirement (sections 104(b)(9), 164(a)(1), 165(a)(1), 165(c)(2), and 182).

(b) The financial management system and the participant data system shall provide federally required records and reports that are uniform in definition, accessible to authorized Federal and State staff, and verifiable for monitoring, reporting, audit and evaluation purposes (sections 165(a)(1), 165(a)(2), and 182).

(c) Pursuant to section 165(a) of the Act, the Governor shall ensure that records shall be maintained of each participant's enrollment in a JTPA program in sufficient detail to demonstrate compliance with the relevant eligibility criteria attending a particular activity and with the restrictions on the provision and duration of services and specific activities authorized by the Act.

(d) The Governor shall ensure that records shall be maintained of such participant information as may be necessary to develop and measure the achievement of performance standards established by the Secretary.

(e) The Governor shall insure that procedures are developed for retention of all records pertinent to all grants and agreements, including financial, statistical, property and participant records and supporting documentation. The period of records retention shall be three years from the last date authorized for the expenditure of funds allotted to a State for a given program year, as set forth at section 161(b) of the Act. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.

(f) The aforementioned records will be retained beyond the prescribed period, if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until the litigation, audit or claim has been finally resolved.

(g) In the event of the termination of the relationship with a subrecipient, the Governor or SDA grant recipient or Title III substate grantee shall be responsible for the maintenance and retention of the records of any subrecipient unable to retain them.

§ 629.36 Reports required.

The Governor shall report to the Secretary pursuant to instructions issued by the Secretary. Reports for programs under Titles I and II shall be required by the Secretary no more frequently than semiannually. Reports shall be submitted to the Secretary within 45 calendar days after the end of the report period (section 165(a)(2)). Reporting requirements for Title III are set forth at § 631.15 of this chapter.

§ 629.37 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as provided herein, not be a general expense required to carry out the overall responsibilities of the Governor or subrecipient. Costs charged to the program shall be consistent with those normally allowed in like circumstances in nonfederally sponsored activities and with applicable State and local law, rules or regulations, as determined by the Governor.

(b) Direct and indirect costs shall be charged in accordance with the OMB Circulars identified at 29 CFR 97.22(b).

(c) The Governor shall issue guidelines on allowable costs for SDA, Title III substate area and statewide programs that shall include provisions that:

(1) Costs resulting from violations of, or failure to comply with, Federal, State or local laws and regulations are not allowable;

(2) Entertainment costs are not allowable;

(3) Insurance policies offering protection against debts established by the Federal Government are not allowable JTPA costs; and

(4) Personal liability insurance for PIC members is allowable.

(d) The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or staff solely for the purpose of discharging general responsibilities as a legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

§ 629.38 Classification of costs.

(a) To comply with the limitations on certain costs contained in section 108 of the Act, allowable costs for programs under Title II shall be charged against the following cost categories: training; administration; and participant support. Only the provisions of paragraph (e)(2)(i), (ii) and (iii)(A) of this section apply to programs under Title III of the Act; the classification of costs for programs under Title III of the Act are set forth at § 631.13 of this chapter.

(b) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(c) For State-administered programs, the Governor is required to plan, control and charge expenditures against the aforementioned cost categories.

(d) The Governor is responsible for ensuring that SDA grant recipients and other subrecipients plan, control and charge expenditures against the aforementioned cost categories.

(e) In assigning costs to the training category pursuant to paragraph (a) of this section, the Governor shall ensure that:

(1) Training costs include: the costs associated with on-the-job training services; employer outreach necessary to obtain job listings or job training opportunities; salaries, fringe benefits, equipment and supplies of personnel directly engaged in providing training (including remedial education; job related counseling for participants; employability assessment and job development; job search assistance; including preparation for work and labor market orientation); books and other teaching aids; equipment and

materials used in providing training to participants; classroom space and utility costs; and tuition and entrance fees that represent instructional costs which have a direct and immediate impact on participants. In addition, 50 percent of the costs of a limited work experience program, and 250 hours of youth tryout employment, are considered allowable training costs. A limited work experience program is one that meets the requirements of section 108(b)(3) of the Act. Youth tryout employment is that which meets the requirements of section 205(d)(3)(B) of the Act.

(2) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training or retraining services when the agreement:

(i) Is for training;

(ii) Is fixed unit price; and

(iii)(A) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement; or

(B) In the case of youth, payment for training packages purchased competitively pursuant to section 141(d)(3) of the Act shall include payment for the full unit price if the training results in either placement in unsubsidized employment or the attainment of an outcome specified in section 106(b)(2) of the Act.

(3) Training costs shall not include the direct or indirect costs associated with the supervision and management of the program.

(4) Training costs do not include supportive services costs as defined in section 4 of the Act or other participant support costs which are determined to be necessary at the local level.

(5) All costs of employment generating activities to increase job opportunities for eligible individuals in the area and the remaining 50 percent of the costs of a limited work experience program, as well as 100 percent of the costs of other work experience programs, are not allowable training costs (section 108(b)(2)(A)).

(6) The salaries and fringe benefits of project directors, program analysts, labor market analysts, supervisors and other administrative positions shall not be charged to training. The compensation of individuals who both instruct and supervise other instructors shall be prorated among the training and administration cost categories based on time records or other verifiable means.

(7) Construction costs may be allowable training or participant support costs only when funds are used to:

(i) Purchase equipment, materials and supplies for use by participants while on the job and for use in the training of such participants. Examples of such equipment, materials and suppliers are handtools, workclothes and other low cost items; and

(ii) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

(8) The cost of incorporating a PIC or consortium administrative entity for the purpose of carrying out programs under the Act shall not be charged to training but may be charged to other cost categories as appropriate.

(9) Any single cost which is properly chargeable to training and to one or more other cost categories shall be prorated among training and the other appropriate cost categories.

§ 629.39 Limitations on certain costs.

(a)(1) Not less than 85 percent of the funds for programs under Titles I and II of the Act may be expended for the cost of training and participant support, except as provided in paragraph (b) of this section.

(2) Administrative costs are limited to 15 percent of funds available. The 15 percent limitation on administrative costs may not be waived.

(b) Funds allotted under the following sections of the Act are excluded from the requirements of paragraph (a) of this section:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to section 123(c)(2)(A); and

(3) Section 202(b)(3).

(c)(1) Not less than 70 percent of the funds for programs under Titles I and II–A of the Act may be expended for the costs of training, except as provided in paragraphs (d) and (e) of this section.

(2) There is an established 30 percent limitation on combined administrative and participant support costs. This limitation may be waived by the Governor only in accordance with paragraph (e) of this section.

(d) Funds allotted under the following sections of the Act are excluded from the requirements of paragraph (c) of this section:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to section 123(c)(2);

(3) Section 202(b)(3), to provide technical assistance to SDAs within the State; and

(4) Section 251.

(e) Expenditures may not be in excess of the limitation contained in paragraph (c) of this section except as provided for in section 108(c).

(f) Notwithstanding the limitations on certain costs contained in section 108 of the Act and paragraphs (a) through (e) of this section, funds available under section 202(b)(3) of the Act may be used by the Governor or SDA during not more than 2 program years, ending June 30, 1988, to develop and implement a data collection system to track the post-program experience of participants. Thereafter, the provisions of paragraphs (a) through (e) of this section shall apply to incentive and technical assistance funds under section 202(b)(3) of the Act, as appropriate.

(g) The provisions of this section do not apply to any designated SDA which served as a concentrated employment program grantee for a rural area under the Comprehensive Employment and Training Act (section 108(d)).

(h) The provisions of this section do not apply to Title III programs under Part 631 of this chapter.

(i) Administrative funds within a SDA may, at the discretion of and pursuant to requirements established by the Governor, be pooled and used for all administrative costs of programs within the SDA assisted with funds under the Act.

§ 629.40 Matching funds.

The Governor shall define and assure the provision of adequate resources to meet the matching requirement of section 123(b) of the Act.

§ 629.41 Property management standards.

(a) Personal or real property procured with JTPA funds or transferred from programs under the Comprehensive Employment and Training Act must be used for purposes authorized by the Act. Subject to the Secretary's rights to such property, the Governor shall maintain accountability for property in accordance with State procedures and the records retention requirements of § 629.35 of this part.

(b) The JTPA program must be reimbursed the fair market value of any unneeded property retained by the Governor for use in a non-JTPA program. The proceeds from the sale of any property or transfer of property to a non-JTPA program must be used for purposes authorized under the Act.

§ 629.42 Audits.

(a) The requirements of 20 CFR Part 96, which implement Office of Management and Budget Circular A–128,

"Audits of State and Local Governments," apply to JTPA programs administered by recipients and subrecipients, and shall be followed for audits of all program years beginning after July 1, 1985.

(b) Within a timely period after the State submits the audit report to the appropriate Federal official, the Governor shall submit an audit resolution report documenting the Governor's disposition of the reported questioned costs, *i.e.*, whether allowed or disallowed, the basis for allowing questioned costs, and corrective actions taken.

(c) If the Governor intends to request waivers of liability under section 164(e)(2) of the Act, such requests must accompany the audit resolution report along with supporting documentation.

(d) After receiving the audit resolution report(s), the Secretary shall review the report(s), the Governor's disposition, and any liability waiver request. If the Secretary is in agreement with all aspects of the Governor's disposition of the audit(s), the Secretary shall so notify the Governor, constituting final agency action on the audit(s). If the Secretary is in disagreement with the Governor's conclusion on specific points in the audit(s), the Secretary shall resolve the audit(s) through the initial and final determination process described in Subpart D of this part.

(e) Audits conducted or arranged by the Inspector General will generally supplement rather than duplicate audits of recipients, PICs, SDAs, Title III substate grantees, or other subrecipients.

§ 629.43 Oversight and monitoring.

(a) The Secretary is authorized to monitor and investigate pursuant to section 163 of the Act.

(b) The Governor is responsible for oversight of all SDA grant recipient and Title III substate grantee activities and State supported programs.

(c) The PIC and local elected official(s) may conduct such oversight as they, individually or jointly, deem necessary or delegate oversight responsibilities to an appropriate entity pursuant to their mutual agreement.

§ 629.44 Sanctions for violations of the Act.

(a) Pursuant to sections 164 (b), (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the Governor is or may be entitled under the Act, except as provided in section 164(e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the Governor by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the Governor or subrecipient in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under sections 164(f) and 167 of the Act, to impose a sanction or corrective action, the Secretary shall utilize initial and final determination procedures outlined in Subpart D of this part.

(c) To impose a sanction or corrective action regarding a violation of section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d)(1) The Secretary shall hold the Governor responsible for all funds under the grant. The Governor shall hold subrecipients, including SDA grant recipients and Title III substate grantees, responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the Governor for misexpenditures of grant funds in accordance with section 164(e) of the Act, including the requirement that the Governor shall have taken prompt and appropriate corrective actions for misexpenditures by a subrecipient.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subrecipients ordinarily shall be considered a part of the corrective action required by section 164(e)(2)(D) of the Act. In this regard, the Governor may request advance approval from the Secretary for contemplated corrective actions. Such requests may address debt collection or options which the Governor plans to initiate or to forego. The Governor's request shall include a description and assessment of all actions taken by the subrecipient to collect the misspent funds.

(4) In making the determination required by section 164(e)(2) of the Act, the Secretary may determine, based on a request from the Governor, that the Governor may forego certain collection actions against a subrecipient where that subrecipient was not at fault with respect to the liability criteria set forth in section 164(e)(2)(A) through section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the Governor's corrective action was appropriate in light of section 164(e)(2)(D) of the Act. At that time, the Secretary shall also consider advance approvals (previously granted pursuant to paragraph (d)(3) of this section) in light of the Governor's demonstrated efforts to undertake the approved course of action.

(5) The Governor shall not be released from liability for misspent funds under the determination required by section 164(e) of the Act until the Secretary determines that further collection action, either by the Governor or subrecipient, would be inappropriate or would prove futile.

(e) The Governor shall have the authority to reduce allocations to a service delivery area or Title III substate area if—

(1) The Secretary offsets a debt against funds allotted to the Governor; and

(2) The debt resulted from a misexpenditure by the SDA grant recipient or Title III substate grantee or their subrecipients.

(f) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subrecipient as authorized in section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.45 Closeout. [Reserved]

§ 629.46 Performance standards.

(a) The Secretary shall prescribe performance standards for adults and youth under Title II–A and dislocated workers under Title III in accordance with section 106 of the Act. Standards for youth employment competencies shall prescribe the framework for competency development.

(b) Pursuant to initial and annual instructions issued by the Secretary, the Governor shall:

(1) Collect the data necessary to set standards pursuant to section 165 of the Act; and

(2) Submit reports according to sections 106 and 121(b)(3) of the Act.

(c) *Title II Performance Standards.* (1) The Governor shall establish SDA standards for Title II within the parameters set annually by the Secretary pursuant to section 106(e) of the Act and apply the standards in accordance with section 202(b)(3) of the Act.

(2) Pursuant to section 106(h)(1) of the Act, the Governor shall, after exhaustion of remedies below, impose a reorganization plan if an SDA fails to meet its Title II performance standards for 2 consecutive years.

(i) Prior to imposition of a reorganization plan, the Governor must offer the subrecipient opportunity for a hearing.

(ii) Should the hearing determination uphold the Governor's imposition of a reorganization plan, the subrecipient may appeal to the Secretary.

(iii) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, DC 20210, ATTENTION: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(iv) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification from the Governor.

(v) The appealing party shall explain why it believes the Governor's decision is contrary to the provisions of section 106 of the Act.

(vi) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the Governor's decision is inconsistent with section 106 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 60 days after this appeal is received (section 106(h)).

(d) *Title III Performance Standards.* (1) The Governor shall establish substate grantee performance standards for programs under Title III within the parameters set annually by the Secretary pursuant to section 106(e) of the Act and apply the standards in accordance with section 311(a) with regard to incentives.

(2) Any performance cost standard for programs under Title III shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments authorized under § 631.20 of this chapter (section 106(g)).

(3) The Secretary annually will certify compliance, if the program is in compliance, with the Title III performance standards established pursuant to paragraph (a) of this section (section 322(a)(4)).

(4) The Governor shall ensure that, within the parameters established by the Secretary pursuant to section 106(e) of the Act, standards for the operation of programs under Title III are not inconsistent with the standards established by the Secretary under the provisions of section 106(g) of the Act (section 311(b)(8)).

(5) Where a substate grantee fails to meet performance standards for 2 consecutive years, the Governor may institute procedures pursuant to the Governor's by-pass authority in accordance with § 631.38(b) of this chapter or require redesignation of the substate grantee in accordance with § 631.35 of this chapter, as appropriate.

Subpart D—Grievances, Investigations, and Hearings

§ 629.51 Scope and purpose.

(a) *General.* This subpart establishes the procedures to receive, investigate and resolve grievances, and conduct hearings to adjudicate disputes under the Act. Complaints of discrimination pursuant to section 167(a) of the Act will be handled under 29 CFR Parts 31 and 32.

(b) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a Governor, SDA grant recipient, Title III substate grantee or other subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the Governor, SDA grant recipient, Title III substate grantee or other subrecipient without first exhausting the remedies in this subpart. Nothing in the Act or this chapter shall:

(1) Allow any person or organization to join or sue the Secretary with respect to the Secretary's responsibilities under JTPA except after exhausting the remedies in this subpart;

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart; or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the JTPA regulations.

§ 629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.

(a) *Policy.* This section deals with the handling of non-criminal complaints. Criminal complaints are to be handled as specified in § 629.55 of this part.

(b) *Procedures at Governor, SDA, and substate grantee levels.* (1) Pursuant to section 144(a) of the Act, each Governor shall maintain a State level grievance procedure and shall ensure the establishment of procedures at the SDA grant recipient level and the Title III substate grantee level for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act. The procedures must include the handling of complaints and grievances arising in connection with JTPA programs operated by each SDA grant recipient, Title III substate grantee and subrecipient under the Act. These procedures must also provide for resolution of complaints arising from actions, such as audit disallowances or the imposition of sanctions, taken by the Governor with respect to audit findings, investigations, or monitoring reports (section 144(a)).

(2) The grievance hearing procedure shall include written notice of the date, time and place of the hearing, an opportunity to present evidence, and a written decision.

(c) *State review.* (1) If a complainant does not receive a decision at the SDA grant recipient or Title III substate grantee level within 60 days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant then has a right to request a review of the complaint by the Governor. The request for review shall be filed within 10 days of receipt of the adverse decision or 10 days from the date on which the complainant should have received a decision. The Governor shall issue a decision within 30 days. The Governor's decision is final.

(2) The Governor shall also provide for an independent State review of a complaint initially filed at the State level on which a decision was not issued within 60 days or on which the complainant has received an adverse decision. A decision shall be made within 30 days. The Governor's decision is final.

(d) *Federal review of local level complaints without decision.* (1) Should the Governor fail to provide a decision as required in paragraph (c) of this section, the complainant may then request from the Secretary a determination whether reasonable cause exists to believe that the Act or its regulations have been violated.

(2) The Secretary shall act within 90 days of receipt of the request and where there is reasonable cause to believe the Act or regulations have been violated shall direct the Governor to issue a decision adjudicating the dispute pursuant to State and local procedures. The Secretary's action does not constitute final agency action and is not appealable under the Act (sections 166(a) and 144(c)). If the Governor does not comply with the Secretary's order within 60 days, the Secretary may impose a sanction upon the Governor for failing to issue a decision.

(3) The request shall be filed no later than 10 days from the date on which the complainant should have received a decision as required in paragraph (c) of

this section. The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint;

(ii) The full name and address of the respondent against whom the complaint is made;

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation;

(iv) The provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated;

(v) A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case; and

(vi) A statement of the date the complaint was filed with the Governor, the date on which the Governor should have issued a decision, and an attestation that no decision was issued.

(4) A request will be considered to have been filed when the Secretary receives from the complainant a written statement sufficiently precise to evaluate the complaint and the grievance procedure used by the State, SDA grant recipient or Title III substate grantee.

§ 629.53 Non-criminal grievance procedure at employer level.

(a) Governors, SDA grant recipients, Title III substate grantees and other subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, also have a grievance procedure relating to the terms and conditions of employment available to their participants (section 144(b)).

(b) Employers under paragraph (a) of this section may operate their own grievance system or may utilize the grievance system established by the Governor, SDA grant recipient or Title III substate grantee under § 629.52 of this part. Employers shall inform participants of the grievance procedure they are to follow.

(c) An employer system shall provide for, upon request by the complainant, a review of an employer's decision by the SDA grant recipient or Title III substate grantee and the Governor, if necessary, in accordance with § 629.52(b) of this part.

§ 629.54 Federal handling of administrative and civil complaints.

(a) (1) The Comptroller General's and Inspector General's authority to conduct audits, evaluations and investigations is as specified in § 629.42 of this part.

(2) The Secretary is authorized to monitor States (section 163(a)).

(3) The Secretary shall each fiscal year investigate several States to evaluate whether the use of funds received under the Act is in compliance with the provisions of the Act (section 165(b)(1)(A)).

(4) The Secretary may receive complaints alleging violations of the Act or regulations through the Department's incident reporting system.

(b) As a result of the findings or content of any of the activities listed in paragraph (a) of this section, the Secretary may:

(1) Direct the Governor to handle a complaint through local grievance procedures established under § 629.52 of this part; or

(2) Investigate and determine whether the Governor or subrecipient(s) are in compliance with the Act and regulations (section 163 (b) and (c)).

(c) (1) The Secretary shall notify the Governor of the findings of the Secretary's investigation and shall give the Governor a period of time, not to exceed 60 days, depending on the nature of the findings, to comment and to take appropriate corrective actions.

(2) The Governor shall offer an opportunity for a hearing at the State level to those subrecipients adversely affected by the results of an investigation, audit or monitoring activity as specified in § 629.52(b) of this part. The Governor shall inform the Secretary of actions undertaken, including any disposition of an audit conducted by the State to deal with the Secretary's findings if one was undertaken within the time frame specified by the Secretary.

(3) The Secretary shall review the complete file of the investigation and the Governor's actions. The Secretary's review shall take into account the provisions of § 629.44 of this part. If the Secretary is in agreement with the Governor's handling of the situation, the Secretary shall so notify the Governor. This notification shall constitute final agency action.

(d) *Initial and final determination.*— (1) *Initial determination.* If the Secretary is dissatisfied with the Governor's disposition of an audit as specified in § 629.42 or other resolution of costs, with the Governor's response to findings pursuant to paragraph (c) of this section, or if the Governor failed to comply with the Secretary's decision pursuant to § 629.52(d)(2) of this part, the Secretary shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants, contracts or other agreements, under the Act.

(2) *Informal resolution.* The Secretary shall not revoke a Governor's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the Governor with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the Secretary's initial determination. In the case of an initial determination pursuant to an audit, the informal resolution period shall be at least 60 days from issuance of the initial determination and no more than 170 days from the receipt by the Secretary of the final approved audit report. If the matters are resolved informally, the Secretary shall issue a final determination pursuant to paragraph (d)(3) of this section which notifies the parties in writing of the nature of the resolution and may close the file.

(3) *Final determination.* (i) If the Governor and the Secretary do not resolve any matter informally, the Secretary shall provide each party with a written final determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Secretary of the final approved audit report.

(ii) The final determination shall:

(A) Indicate that efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(B) List those matters upon which the parties continue to disagree;

(C) List any modifications to the factual findings and conclusions set forth in the initial determination;

(D) Establish a debt if appropriate;

(E) Determine liability, method of restitution of funds and sanctions; and

(F) In the case of a final determination imposing a sanction or corrective action, offer an opportunity for a hearing in accordance with § 629.57 of this part.

(iii) The final determination constitutes the final agency action unless a hearing is requested.

(e) Nothing in this section shall preclude the Secretary from issuing an initial and final determination directly to a subrecipient in accordance with the authority of section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.

All information and complaints involving fraud, abuse or other criminal activity shall be reported directly and immediately to the Secretary of Labor.

§ 629.56 Opportunity for informal review.

(a) Parties to a complaint under § 629.57 of this part may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to section 166(b) of the Act.

§ 629.57 Hearings before the Office of Administrative Law Judges.

(a) *Jurisdiction.* The jurisdiction of the OALJ extends only to those complainants identified in sections 164(f) and 166(a) of the Act. All other disputes arising under the Act shall be adjudicated under the appropriate recipient or subrecipient grievance procedures or other applicable law.

(b) *Sanctions.* For the purpose of this section, "sanctions" will not include actions required by authority other than this Act. For example, the imposition of interest charges where required by the Debt Collection Act of 1982 is not a sanction for the purpose of this section.

(c) *Procedures for filing request for hearing.* (1) Within 21 days of receipt of the determination imposing the sanction or corrective action, or denying financial assistance, the applicant, Governor, SDA grant recipient, Title III substate grantee or other subrecipient of funds may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Room 700, Vanguard Building, 1111 20th Street NW., Washington, DC 20036, with one copy to the departmental official who issued the determination and one copy to the Administrator, Office of Financial and Administrative Management, Employment and Training Administration, Washington, DC 20210.

(2) The 21-day filing requirement is jurisdictional; failure to timely request a hearing acts as a waiver of the right to hearing.

(3) The request shall specifically state those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested within the 21 days, shall be considered resolved and not subject to further review. Only alleged violations of the Act, regulations, grant or other agreements under the Act fairly raised in the determination and the request for hearing are subject to review.

(4) The same procedure set forth in paragraphs (c) (1) through (3) of this section applies in the case of a complainant who has not had a dispute adjudicated by the informal review process of § 629.56 of this part within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

(d) *Service and filing.* Copies of all papers required to be served on a party or filed with the OALJ shall be filed simultaneously with the OALJ and served upon the parties of record or their representatives, and shall contain proof of such service.

(e) *Rules of Procedure.* The rules of practice and procedure promulgated by the OALJ (29 CFR Part 18) shall govern the conduct of hearings under this section, except that a request for hearing under this section shall not be considered a complaint to which the filing of an answer by DOL or a DOL agency or official is required.

(f) *Prehearing procedures.* In all cases, the OALJ should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(g) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the OALJ and shall be issued pursuant to the authority contained in section 163(b) of the Act, incorporating 15 U.S.C. 49.

(h) *Timely submission of evidence.* The OALJ shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at least 3 weeks prior to the hearing date.

(i) *Burden of production.* The Department shall have the burden of production to support the Secretary's decision. To this end, the Secretary shall prepare and file an administrative file in support of the decision. Thereafter, the party or parties seeking to overturn the Secretary's decision shall have the burden of persuasion.

(j) *Relief.* In ordering relief, the OALJ shall have the full authority of the Secretary under section 164 of the Act, except with respect to the provisions of section 164(e) of the Act.

(k) *Timing of decisions.* The OALJ should render a written decision not later than 90 days after the closing of the record.

§ 629.58 Other Authority.

Nothing contained in this subpart shall be deemed to prejudice the separate exercise of other authorities in pursuit of remedies and sanctions available outside the Act.

5. Part 630 is revised to read as follows:

PART 630—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT

Sec.

Authority: 29 U.S.C. 1579(a).

§ 630.1 Adult and youth programs under Part A of Title II.

(a) Funding for programs under this section shall be provided in accordance with sections 162, 201, and 202 of the Act. Funds may be used to provide services specified in section 204 of the Act to persons meeting eligibility criteria specified in sections 141(e) and 203 of the Act.

(b)(1) Pursuant to section 203(b) of the Act, not less than 40 percent of funds shall be expended for services to eligible youth. For the purposes of this paragraph (b)(1), the term "eligible youth" includes individuals who are 14 and 15 years of age and enrolled pursuant to section 205(c)(1) of the Act.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the SDA differs from the ratio of such individuals nationally as published by the Secretary, the percentage specified in paragraph (b)(1) of this section shall be reduced or increased by a local adjustment factor. This factor, which may be obtained by dividing the SDA

ratio of economically disadvantaged youth to economically disadvantaged adults by the national ratio as published by the Secretary, may be multiplied by 40 percent to derive the youth service level for the SDA. The Governor may provide for an alternative methodology to develop the local adjustment factor depending on the availability of data (section 203(b)(2)).

(c) Funds may be used to conduct exemplary youth programs under section 205 of the Act, as follows:

(1) Except for tryout employment authorized under section 205(d)(3)(B) of the Act, exemplary youth programs may be modified to accommodate local conditions as specified in the job training plan (section 205(a)); and

(2) Tryout employment in private-for-profit worksites may be conducted only in accordance with section 205(d) of the Act (section 141(k)).

§ 630.2 Summer youth employment and training programs under Part B of Title II.

(a) The purposes of Title II–B summer programs are to:

(1) Enhance the basic educational skills of eligible youth;

(2) Encourage school competition, or enrollment in supplementary or alternative school programs; and

(3) Provide eligible youth with exposure to the world of work.

(b) Funding for programs under this section shall be provided in accordance with sections 162 and 252 of the Act to provide services specified in section 253 of the Act to economically disadvantaged youth meeting the eligibility criteria set forth in sections 141(e) and 254 of the Act.

(c) The Governor shall issue instructions and schedules to assure that each SDA describes its planned summer youth employment and training program (SYETP) activities in an SYETP plan. The SYETP plan shall include a description of assessment plans and arrangements, a description of program activities and services to be provided, and written program goals and objectives which shall be used to evaluate the effectiveness of programs, and a description of evaluation criteria and process used to evaluate the effectiveness of programs conducted under this section. The Governor may specify other elements that are to be contained in the SYETP plan. The SYETP plan shall:

(1) Describe how the reading and mathematics skills levels of eligible participants will be assessed;

(2) Include the provision of basic and remedial education (other allowable activities specified at section 253 of the Act may also be provided) and based on the results of the assessment conducted under paragraph (c)(1) of this section describe SDA basic and remedial education programs which enhance the basic education skills of youth; and

(3) Describe the written goals and objectives established by the SDA to evaluate the effectiveness of its SYETP as specified at section 255 of the Act, and the evaluation methods which measure the effectiveness of its summer program.

(d) Pursuant to seciton 254 of the Act, an SDA may offer SYETP activities and services with funds under this section to participants during a vacation period designated as the equivalent of a summer vacation if the local educational agency operates its schools on a year-round full-time basis.

(e) Not more than 15 percent of the funds available for programs under this section may be used for the costs of administration.

6. Part 631 is revised to read as follows:

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.

Subpart B—Additional Title III Administrative Standards and Procedures

Subpart C—Needs-Related Payments

Subpart D—State Administration

Subpart E—State Programs

Subpart F—Substate Programs

Subpart G—Federal Delivery of Dislocated Worker Services

Subpart H—Transition Provisions

Authority: 29 U.S.C. 1579(a); Sec. 6305(f), Pub. L. 100–418, 102 Stat. 1107; § 631.30(a)(7)(viii) also issued under Sec. 8, Pub. L. 100–379, 102 Stat. 890.

Subpart A—General Provisions

§ 631.1 Scope and purpose.

(a) This part implements Title III of the Act. Title III programs seeks to establish an early readjustment capacity for workers and firms in each State; to provide comprehensive coverage to workers regardless of the cause of dislocation; to provide early referral from the unemployment insurance system to adjustment services as an integral part of the adjustment process; to foster labor, management and community partnerships with government in addressing worker dislocation; to emphasize retraining and reemployment services rather than income support; to create an on-going substate capacity to deliver adjustment services; to tailor services to meet the needs of individuals; to improve accountability by establishing a system of mandated performance standards; to improve financial management by monitoring expenditures and realloting available funds; and to provide the flexibility to target funds to the most critical dislocation problems.

(b) These regulations apply to JTPA programs funded by Fiscal Year 1989 and later appropriations for use in programs in Program Year 1989 and later. For JTPA Title III programs operated with funds appropriated for fiscal years before Fiscal Year 1989, the regulations which had been published in 20 CFR Part 631 (1988 ed.) continue to apply.

§ 631.2 Definitions.

In addition to the definitions contained in sections 4, 301, and 303(e) of the Act and in § 626.4 of this chapter, the following definition applies to

programs under Title III of the Act and this part:

"Substantial layoff" means any reduction-in-force which is not the result of a plant closing and which results in an employment loss at a single site of employment during any 30-day period for:

(a) (1) At least 33 percent of the employees (excluding employees regularly working less than 20 hours per week); and

(2) At least 50 employees (excluding employees regularly working less than 20 hours per week); or

(b) At least 500 employees (excluding employees regularly working less than 20 hours per week).

§ 631.3 Participant eligibility.

(a) Eligible dislocated workers, as defined in section 301 of the Act, are eligible to participate in programs under this part.

(b) Eligible dislocated workers include individuals who were self-employed (including farmers and ranchers) and are unemployed:

(1) Because of natural disasters, subject to the provisions of paragraph (e) of this section; or

(2) As a result of general economic conditions in the community in which they reside.

(c) For the purposes of paragraph (b) of this section, categories of economic conditions resulting in the dislocation of a self-employed individual may include, but are not limited to:

(1) Failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or services;

(2) Failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services;

(3) Substantial layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the State or local economy; and/or

(4) Depressed price(s) or market(s) for the article(s) produced by the self-employed individual.

(d) The Governor is authorized to establish procedures to determine the following categories of individuals to be eligible to participate in programs under this part:

(1) Self-employed farmers, ranchers, professionals independent tradespeople and other businesspersons formerly self-employed but presently unemployed.

(2) Self-employed individuals designated in paragraph (d)(1) of this section who are in the process of going out of business, if the Governor determines that the farm, ranch, or business operations are likely to terminate.

(3) Family members of individuals identified under paragraph (d) (1) and (2) of this section, to the extent that their contribution to the farm, ranch, or business meets minimum requirements as established by the Governor.

(e) The Governor is authorized to establish procedures to identify individuals permanently dislocated from their occupations or fields of work, including self-employment, because of natural disasters. For the purposes of this paragraph (e), categories of natural disasters include, but are not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snow storm, drought, fire, explosion, or other catastrophe.

(f) The State may provide services to displaced homemakers (as defined in section 4 of the Act) under this part only if the Governor determines that such services may be provided without adversely affecting the delivery of such services to eligible dislocated workers (section 311(b)(4)).

(g) An eligible dislocated worker issued a certificate of continuing eligibility as provided in § 631.53 of this part shall remain eligible for assistance under this part for the period specified in the certificate not to exceed 104 weeks.

(h) An eligible dislocated worker who has not been issued such a certificate shall remain eligible if such individuals:

(1) Remains unemployed, or

(2) Accepts temporary employment for the purpose of income maintenance prior to, and/or during participation in a training program under this part with the intention of ending such temporary employment at the completion of the training and entry into permanent unsubsidized employment as a result of the training. Such temporary employment must be with an employer other than that from which the individual was dislocated. This provision applies to eligible individuals both prior to and subsequent to enrollment.

§ 631.4 Approved training rule.

Participation by an eligible individual in any of the programs authorized under Title III of the Act or this part shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provisions of Federal law relating to unemployment benefits.

Subpart B—Additional Title III Administrative Standards and Procedures

§ 631.11 Allotment and obligation of funds by the Secretary.

(a) Funds shall be allotted among the various States in accordance with section 302(b)(1) of the Act, subject to paragraph (b) of this section.

(b) Funds shall be allotted among the various States in accordance with section 302(b)(2) (A) and (B) as soon as satisfactory data are available under section 462(e) of the Act.

(c) Allotments for the Commonwealth of the Northern Mariana Islands and other territories and possessions of the United States shall be made by the Secretary in accordance with the provisions of section 302(e) of the Act.

§ 631.12 Reallotment of funds by the Secretary.

(a) Based upon reports submitted by States pursuant to § 631.15 of this part, the Secretary shall make determinations regarding total expenditures of funds within the State with reference to the amount required to be reallotted pursuant to section 303(b) of the Act. For purposes of this paragraph—

(1) The funds to be reallotted with be an amount equal to the sum of:

(i) unexpended funds on excess of 20 percent of the prior year's formula allotments, and

(ii) all unexpended previous program year funds made available by formula.

(2) (i) The current program year is the year in which the determination is made:

(ii) The prior program year is the year immediately preceding the current program year; and

(iii) the previous program year is the year immediately preceding the prior program year.

(3) Unexpended funds shall mean the remainder of the total funds made available by formula that were available to the State for the prior program year minus total accrued expenditures at the end of the prior program year.

(4) Reallotted funds will be made available from current year allotments made available by formula.

(b) Based upon the most current and satisfactory data available, the Secretary shall identify both States with high expenditures and eligible high unemployment States, pursuant to the definitions of those terms in section 303(e) of the Act.

(c) The Secretary shall recapture funds from States identified in paragraph (a) of this section and reallot and reobligate such funds to eligible

States as identified in paragraph (b) of this section, as set forth in section 303 (a), (b), and (c) of the Act.

(d) Reallotted funds shall be subject to allocation pursuant to § 631.32, and to the cost limitations at § 631.14 of this part.

(e) The provisions of this section and section 303 of the Act shall apply to Program Year 1988, except as provided in section 6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act.

§ 631.13 Classification of costs at State and substate levels.

(a) (1) To comply with the limitations on certain costs contained in section 315 of the Act, allowable costs under Title III shall be charged by either the State or the substate grantee against the following cost categories: rapid response services, basic readjustment services, retraining services, needs-related payments, supportive services, and administration. Costs shall be reported to the Secretary of Labor in accordance with the reporting requirements established pursuant to § 631.15 of this part.

(2) All costs shall be allocable to a particular cost category to the extent that benefits are received by such category. No costs shall be chargeable to a cost category except to the extent that such benefits are received by such category.

(b) Rapid response services shall be those identified at section 314(b) of the Act.

(1) Staff salary and benefit costs are chargeable to the rapid response services cost category only for that portion of staff time actually spent on rapid response activities.

(2) All other costs are chargeable to the rapid response services cost category only to the extent that they are solely for rapid response purposes.

(c) Basic readjustment services shall be those identified at section 314(c) of the Act, except as provided in paragraph (f) below.

(d) Retraining services shall be those identified at section 314(d) of the Act.

(e) Needs-related payments shall be those identified at section 314(e) of the Act.

(f) Supportive services shall be those identified at section 4(24) of the Act and provided for under Title III at section 314(c)(15) of the Act.

(g) Administration shall be that portion of necessary and allowable costs which is not directly related to the provision of services and otherwise allocable to the cost categories in paragraphs (b) through (f) of this section. All activities conducted to coordinate and exchange information with other programs to assist eligible individuals, including coordination with the Federal-State unemployment compensation system and with Title II of the Trade Act, shall be classified as administration (sections 311(b)(10) and 314(f)).

§ 631.14 Limitations on certain costs.

(a) Of the funds expended from program year's allotment:

(1) Not more than 15 percent of the amount expended from the amount reserved by the Governor under section 302(c)(1) of the Act shall be expended for administrative costs. Administrative costs do not include the cost of State rapid response assistance required under section 314(b) of the Act (section 315(c)).

(2) Not more than 25 percent of the amount expended from the amount reserved by the Governor under section 302(c)(1) of the Act shall be expended for needs-related payments and supportive services.

(3) Not more than 15 percent of the amount expended from the amount provided under section 302 (c)(1), (c)(2), and (d) of the Act to a substate grantee shall be expended for administration.

(4) Not more than 25 percent of the amount expended from the amount provided under section 302 (c)(1), (c)(2), and (d) of the Act shall be expended for needs-related payments and supportive services by a substate grantee.

(5) Not less than 50 percent of the funds expended by a substate grantee for activities under this title from the amount provided under section 302 (c)(1), (c)(2), and (d) of the Act shall be expended for retraining services specified in section 314(d) of the Act unless a waiver to this requirement is granted by the Governor. The Governor shall prescribe criteria that will allow substate grantees to apply in advance for a waiver of this requirement, pursuant to section 315(a)(2) of the Act. The Governor shall prescribe the time and form for the submission of an application for such a waiver, as provided for at section 315(a)(3) of the Act. The Governor shall not grant a waiver that allows less than 30 percent of the funds expended by a substate grantee to be expended for retraining activities.

(b) Reallotted funds are subject to the limitations on certain costs contained in paragraph (a) of this section.

§ 631.15 Federal reporting requirements.

Notwithstanding the provisions of § 629.36 of this chapter, the Governor shall report to the Secretary pursuant to instructions issued by the Secretary for programs and activities funded under this part. Reports shall be required quarterly, semi-annually, and annually for the first two program years. Reports shall be provided to the Secretary within 45 calendar days after the end of the report period (section 165(a)(2)).

§ 631.16 Complaints, investigations, and penalties.

The provisions of this section apply in addition to the sanctions provisions in § 629.44 of this chapter.

(a) The Secretary shall investigate a complaint or report received from an aggrieved party or a public official which alleges that a State is not complying with the provisions of the State plan required under section 311(a) of the Act (section 311(e)(1)).

(b) Where the Secretary determines that a State has failed to comply with its State plan, and that other remedies under the Act and Part 629 of this chapter are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the program year in which the determination is made for each such violation (section 311(e)(2)(A)).

(c) The Secretary will not impose the penalty provided for under paragraph (b) of this section until all other remedies under the Act and Part 629 of this chapter for achieving compliance have been exhausted or are determined to be unavailable or inadequate to achieve State compliance with the terms of the State plan.

(d) The Secretary will make no determination under this section until the affected State has been afforded adequate written notice and an opportunity to request and to receive a hearing before an administrative law judge pursuant to the provisions of § 629.57 of this chapter (section 311(e)(2)(B)).

§ 631.17 Federal monitoring and oversight.

The Secretary shall conduct oversight of State administration of programs under this part and of rapid response activities conducted in accordance with § 631.30 of this part.

§ 631.18 Federal by-pass authority.

(a) In the event that a State fails to submit a biennial State plan that is approved under § 631.36 of this part, the Secretary shall make arrangements to use the amount that would be allotted to that State for the delivery in that State of the programs, activities, and services authorized under Title III of the Act and this part.

(b) No determination may be made by the Secretary under this section until the

affected State is afforded written notification of the Secretary's intent to exercise by-pass authority and an opportunity to request and to receive a hearing before an administrative law judge pursuant to the provisions of § 629.57 of this chapter.

(c) The Secretary will exercise by-pass authority only until such time as the affected State has an approved plan under the provisions of § 631.36 of this part (section 321(b)).

§ 631.19 Appeals.

Except as provided in this part, disputes arising in programs under this part shall be adjudicated under the appropriate State or local grievance procedures required by § 629.52 of this chapter or other applicable law. Complaints alleging violations of the Act or this part may be filed with the Secretary, pursuant to § 629.54 of this chapter. The following paragraphs refer to appeal provisions set forth in this part.

(a) Section 628.1(c) of this chapter (appeals of denial of SDA designation) shall apply to denial of substate area designations under § 631.34(c) (1) and (3) of this part.

(b) Section 628.5(b) of this chapter (appeals of final disapproval of SDA job training plans or modifications) shall apply to final disapproval of substate plans under § 631.50(f) of this part.

(c) Section 628.5(c) of this chapter (appeals of a Governor's notice of intent to revoke approval of all or part of a plan) shall apply to a Governor's notice of intent to exercise by-pass authority under § 631.38 of this part.

(d) Section 628.6(d) of this chapter (appeals of the Secretary's disapproval of a plan when the SDA is the State) shall apply to plan disapproval when the substate area is the State, as set forth in § 631.50 (g) and (h) of this part.

(e) Decisions pertaining to designations of substate grantees under § 631.35 of this part are not appealable to the Secretary.

Subpart C—Needs-related payments

§ 631.20 Needs-related payments.

(a) In accordance with the approved substate plan, needs-related payments shall be provided to an eligible dislocated worker only in order to enable such worker to participate in training or education programs under this part. To be eligible for needs-related payments:

(1) An eligible worker who has ceased to qualify for unemployment compensation must have been enrolled in a training or education program by the end of the thirteenth week of the worker's initial unemployment compensation benefit period, or, if later, by the end of the eighth week after an employee is informed that a short-term layoff will in fact exceed 6 months.

(2) For purposes of paragraph (a)(1) of this section, the term "enrolled in a training or education program" means that the worker's application for training has been approved and the training institution has furnished written notice that the worker has been accepted in the approved training program beginning within 30 calendar days.

(3) An eligible worker who does not qualify for unemployment compensation must be participating in a training or education program. (section 314(e)(1)).

(b) Needs-related payments shall not be provided to any participant for the period that such individual is employed more than 20 hours per week, enrolled in or receiving on-the-job training, out-of-area job search, or basic readjustment services in programs under the Act, nor to any participant receiving trade readjustment allowances, on-the-job training, out-of-area job search allowances, or relocation allowances under Chapter 2 of Title II of the Trade Act of 1974 or Part 617 of this chapter.

(c) The level of needs-related payments to an eligible dislocated worker in programs under this part shall not exceed the higher of:

(1) The applicable level of unemployment compensation; or

(2) The poverty level as published by the Secretary of Health and Human Services (section 314(e)(2)).

Subpart D—State Administration

§ 631.30 Designation or creation and functions of a State dislocated worker unit or office and rapid response assistance.

(a) *Designation or creation of State dislocated worker unit or office.* The State shall designate or create an identifiable State dislocated worker unit or office with the capabilities and functions identified below. Such unit or office may be an existing organization or new organization formed for this purpose (section 311(b)(2)). The State dislocated worker unit or office shall:

(1) Make appropriate retraining and basic adjustment services available to eligible dislocated workers through substate grantees, and in statewide, regional or industrywide projects;

(2) Work with empoyers and labor organizations in promoting labor-management cooperation to achieve the goals of this part;

(3) Operate a monitoring, reporting, and management system to provide adequate information for effective program management, review, and evaluation;

(4) Provide technical assistance and advice to substate grantees;

(5) Exchange information and coordinate programs with the appropriate economic development agency, State education and training and social services programs;

(6) Coordinate with the unemployment insurance system, the Federal-State Employment Service system, the Trade Adjustment Assistance program and other programs under this chapter;

(7) Receive advance notice of plant closings and mass layoffs as provided at section 3(a)(2) of the Worker Adjustment and Retraining Notification Act, Pub. L. 100-379, 102 Stat. 890;

(8) Notify the appropriate substate grantees as soon as possible (preferably within 48 hours) following receipt of employer notice of layoff or plant closing;

(9) Consult with labor organizations where substantial numbers of their members are to be served; and

(10) Disseminate throughout the State information on the availability of services and activities under Title III of the Act and this part.

(b) *Rapid response capability.* The dislocated worker unit shall have the capability, including appropriate staff, to provide rapid response assistance, on-site, for dislocation events such as permanent closures and substantial layoffs throughout the State.

(1) Such appropriate staff shall include individuals knowledgeable about the resources available through programs under this part and all other appropriate resources available through public and private sources to assist dislocated workers. The expertise required under this part includes knowledge of the Federal, State and local training and employment systems; labor-management relations; private industry and labor market trends; and other fields necessary to carry out the rapid response requirements of the Act.

(2) The rapid response specialists shall have:

(i) The ability to organize a broad-based response to a dislocation event, including the ability to coordinate services provided under this part with other State-administered programs available to assist dislocated workers, and the ability to involve the substate grantee and local service providers in the assistance effort;

(ii) The authority to provide limited amounts of immediate financial assistance for rapid response activities, including, where appropriate, financial assistance to labor-management

committees formed under paragraph (c)(2) of this section; and

(iii) Credibility among employee groups and in the employer community in order to effectively work with employers and employees in difficult situations.

(3) The dissemination of information on the State dislocated worker unit's services and activities shall include efforts to ensure that major employers and employee groups, including groups of employees not represented by organized labor, are aware of the availability of rapid response assistance. The State dislocated worker unit shall make equal effort in responding to dislocation events without regard to whether the affected workers are represented by a union.

(4) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

(5) Rapid response specialists may use funds available under this part:

(i) To establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

(A) Provide information on and facilitate access to available public programs and services; and

(B) Provide emergency assistance adapted to the particular closure or layoff. Such emergency assistance may include financial assistance for appropriate rapid response activities, such as arranging for the provision of early intervention services and other appropriate forms of immediate assistance in response to the dislocation event.

(ii) To promote the formation of labor-management committees as provided for in paragraph (c) of this section, by providing—

(A) Immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

(B) A list of individuals from which the chairperson of the committee may be selected;

(C) Technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

(D) Assistance in the selection of worker representatives in the event no union is present;

(iii) To provide ongoing assistance to labor-management committees described in paragraph (c) of this section by—

(A) Maintaining ongoing contact with such committees, either directly or through the committee chairperson;

(B) Attending meetings of such committees on and *ex officio* basis; and

(C) Ensuring ongoing liaison between the committee and locally available resources for addressing the dislocation, including the establishment of linkages with the substate grantee or with the service provider designated by the substate grantee to act in such capacity;

(iv) To collect information related to—

(A) Economic dislocation (including potential closings of layoffs); and

(B) All available resources within the State for displaced workers, which information shall be made available on a regular basis to the Governor and the SJTCC to assist in providing an adequate information base for effective program management, review, and evaluation;

(v) To provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

(vi) To disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

(vii) To assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

(c) *Labor-management committees.* As provided for in sections 301(b)(1) and 314(b)(1)(B) of the Act, labor-management committees are a form of rapid response assistance which may be voluntarily established to respond to actual or prospective worker dislocation.

(1) Labor management committees ordinarily include (but are not limited to) the following—

(i) Shared and equal participation by workers and management, with members often selected in an informal fashion;

(ii) Shared financial participation between the company and the state, using funds provided under this title, in paying for the operating expenses of the committee. In some instances, labor union funds may help to pay committee expenses;

(iii) A chairperson, to oversee and guide the activities of the committee who—

(A) Shall be jointly selected by the labor and management members of the committee;

(B) Is not employed by or under contract with labor or management at the site; and

(C) Shall provide advice and leadership to the committee and prepare a report on its activities;

(iv) The ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

(v) A formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

(vi) Local job identification activitites by the chairperson and members of the committee on behalf of the affected workers.

(2) Because they include employee representatives, labor-management committees typically provide a channel whereby the needs of eligible dislocated workers can be assessed, and programs of assistance developed and implemented, in an atmosphere supportive to each affected worker. As such, committees must be perceived to be representative and fair in order to be most effective.

§ 631.31. Monitoring and oversight.

The Governor is responsible for monitoring and oversight of all State and substate grantee activities under this part. In such monitoring and oversight of substate grantees, the Governor shall ensure that expenditures and activities are in accordance with the substate plan or modification thereof.

§ 631.32 Allocation of funds by the Governor.

Of the funds allotted to the Governor by the Secretary under § 631.11 and § 631.12 of this part:

(a) The Governor shall issue allocations to substate grantees, the sum of which shall be no less than 50 percent of the State's allotment (section 302(d)).

(b)(1) The Governor shall prescribe the formula to be used in issuing substate allocations to substate grantees.

(2) The formula shall utilize the most appropriate information available to the Governor. In prescribing the formula, the Governor shall include (but need not be limited to) the following information:

(i) Insured unemployment data;

(ii) Unemployment concentrations;

(iii) Plant closing and mass layoff data;

(iv) Declining industries data;

(v) Farmer-rancher economic hardship data; and

(vi) Long-term unemployment data.

(3) The Governor may allow for an appropriate weight for each of the formula factors in paragraph (b)(2) of this section. The formula may be amended no more frequently than once each program year. The formula shall be used for substate allocations of "fifty-percent" funds under section 302(d) of the Act.

(c) The Governor may reserve an amount equal to not more than 40 percent of the funds allotted to the State under § 631.11 and § 631.12 of this part for State activities and for discretionary allocations to substate grantees (section 302(c)(1)).

(d) The Governor may reserve an additional amount equal to not more than 10 percent of the funds allotted to the State under § 631.11 of this part. The Governor shall allocate such funds subject to SJTCC review and comment, during the first three quarters of the program year among substate grantees on the basis of need. Such funds shall be allocated to substate grantees and shall not be used for statewide activities (sections 302(c)(2) and 317(1)(B)).

§ 631.33 State procedures for identifying funds subject to mandatory Federal reallotment.

The Governor shall establish procedures to assure the equitable identification of funds required to be reallocated pursuant to section 303(b) of the Act. Funds so identified may be funds provided to the State pursuant to section 302(c)(1) of the Act and/or to substate grantees pursuant to section 302 (c)(2) and/or (d) of the Act (section 303(d)). Such procedures may not exempt either State or substate funds from such consideration.

§ 631.34 Designation of substate areas.

(a) The Governor, after receiving recommendations from the SJTCC, shall designate substate areas for the State (section 312(a)).

(b) In designating substate areas, the Governor shall:

(1) Ensure that each service delivery area (SDA) within the State is included within a substate area and that no SDA is divided among two or more substate areas; and

(2) Consider the availability of services throughout the State, the capability to coordinate the delivery of services with other human services and economic development programs, and the geographic boundaries of labor market areas within the State.

(c) Subject to paragraph (b) of this section, the Governor shall designate as a substate area:

(1) Any single SDA that has a population of 200,000 or more;

(2) Any two or more contiguous SDAs that:

(i) In the aggregate have a population of 200,000 or more; and

(ii) Request such designation; and

(3) Any concentrated employment program grantee for a rural area described in section 101(a)(4)(A)(iii) of the Act.

(d) In addition to the entities identified in paragraph (c) of this section, the Governor may, without regard to the 200,000 population requirement, designate SDAs with smaller populations as substate areas.

(e) The Governor may deny a request for substate area designation from a consortium of two or more SDAs that meets the requirements of paragraph (9c)(2) of this section only upon a determination that the request is not consistent with the effective delivery of services to eligible dislocated workers in the relevant labor market area, or would otherwise be inappropriate. The Governor will give good faith consideration to all such requests by a consortium of SDAs to be a substate area. In denying a consortium's request for substate area designation, the Governor shall set forth the basis and rationale for the denial (section 312(a)(5)).

(f) In the case where the service delivery area is the State, the entire State will be designated as a single substate area.

(g)(1) Entities described in paragraphs (c) (1) and (3) of this section may appeal the Governor's denial of substate area designation to the Secretary of Labor. The procedures that apply to such appeals shall be those set forth at § 628.1 for appeals of the Governor's denial of SDA designation, except that in applying that section to this paragraph the words "service delivery area" and "SDA" shall read "substate area", and "section 101(a)(4)(A)" shall read "section 312(a)(4)", and "section 101" shall read "section 312".

(2) An entity described in paragraph (c)(2) of this section that has been denied substate area designation may utilize the State-level grievance procedures required by section 144(a) of the Act and § 629.52 of this chapter for the resolution of disputes arising from such a denial.

(h) Designation of substate areas shall not be revised more than once each two years. All such designations must be completed no later than four months prior to the beginning of any program year (section 312(a)(6)).

§ 631.35 Designation of substate grantees.

The Governor may establish procedures for the designation of substate grantees.

(a) Designation of the substate grantee for each substate area shall be made on a biennial basis.

(b) Entities eligible for designation as substate grantees include:

(1) Private industry councils in the substate area;

(2) Service delivery area grant recipients or administrative entities;

(3) Private non-profit organizations;

(4) Units of general local government in the substate area, or agencies thereof;

(5) Local offices of State agencies; and

(6) Other public agencies, such as community colleges and area vocational schools.

(c) Substate grantees shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the SJTCC), to negotiate such agreement.

(d) The agreement specified in paragraph (c) of this section shall set forth the conditions, considerations, and procedures that apply to the selection of substate grantees in accordance with section 312(b) of the Act.

(e) The Governor will negotiate in good faith with the parties identified in paragraph (c) of this section and shall make a good faith effort to reach agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

(f) Decisions under paragraphs (c), (d) and (e) of this section are not appealable to the Secretary (section 312(b) and (c)).

§ 631.36 Biennial State plan.

(a) In order to receive an allotment of funds under § 631.11 and § 631.12 of this part, the State shall submit to the Secretary, in accordance with instructions issued by the Secretary, on a biennial basis, a biennial State plan (section 311). Such plan shall include:

(1) Assurances that—(i) The State will comply with the requirements of Title III and this part;

(ii) Services will be provided only to eligible displaced workers, except as

provided in paragraph (a)(2) of this section;

(iii) Services will not be denied on the basis of State of residence to eligible dislocated workers displaced by a permanent closure or substantial layoff within the State; and may be provided to other eligible dislocated workers regardless of the State of residence of such workers;

(2) Provision that the State will provide services under this part to displaced homemakers only if the Governor determines that the services may be provided to such workers without adversely affecting the delivery of services to eligible dislocated workers;

(3) A description of the substate allotment and reallotment procedures and assurance that they meet the requirements of the Act and this part;

(4) A description of the State procurement system and procedures to be used under Title III and this part; and

(5) Assurance that the State will not prescribe any performance standard which is inconsistent with § 629.46(d) of this chapter.

(b) The State biennial plan shall be submitted to the Secretary on or before the May 1 immediately preceding the first of the two program years for which the funds are to be made available.

(c) Any plan submitted under paragraph (a) of this section may be modified to describe changes in or additions to the programs and activities set forth in the plan. No plan modification shall be effective unless reviewed pursuant to paragraph (d) of this section and approved pursuant to paragraph (e) of this section.

(d) The Secretary shall review plans and plan modifications, including any comments thereon submitted by the SJTCC, for overall compliance with the provisions of the Act, this part, and the instructions issued by the Secretary.

(e) A plan or plan modification is submitted on the date of its receipt by the Secretary. The Secretary shall approve a plan or plan modification within 45 days of submission unless, within 30 days of submission, the Secretary notifies the Governor in writing of any deficiencies in such plan or plan modification.

(f) The Secretary shall not finally disapprove the plan or plan modification of any State except after written notice and an opportunity to request and to receive a hearing before an administrative law judge pursuant to the provisions of § 629.57(c) of this chapter.

§ 631.37 Coordination activities.

(a) Services under this part shall be integrated or coordinated with services and payments made available under Chapter 2 of Title II of the Trade Act of 1974 (and Part 617 of this chapter) and programs provided by any State or local agencies designated under section 239 of the Trade Act of 1974 or Part 617 of this chapter (section 311(b)(10)). Such coordination should be effected under provisions of an interagency agreement when the State agency responsible for administering programs under this part is different from the State agency administering Trade Act programs.

(b) States may use funds allotted under 631.11 and § 631.12 for coordination of worker readjustment programs, (*i.e.*, programs under this part and trade adjustment assistance under Part 617 of this chapter) and the unemployment compensation system consistent with the limitation on administrative expenses (see § 631.14(a)(1) of this part). Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs (section 314(f)).

(c) Services under this part will be coordinated with dislocated worker services under Title III of the Carl D. Perkins Vocational Education Act.

(d) In promoting labor management cooperation, including the formation of labor-management committees under this part, the dislocated worker unit shall consider cooperation and coordination with labor management committees established under other authorities.

§ 631.38 State by-pass authority.

(a)(1) In the event that a substate grantee fails to submit a plan, or submits a plan which is not approved by the Governor (see § 631.50(f) of this part), the Governor may direct the expenditure of funds allocated to the substate area.

(2) The Governor's authority to expend funds remains in effect only until such time as a plan is submitted and approved, or a new substate grantee is designated. (section 313(c)).

(3) No determination may be made by the Governor under this paragraph (a) except after the affected substate grantee has been afforded advance written notice of the Governor's intent to exercise such authority and an opportunity to appeal to the Secretary pursuant to the provisions of § 628.5(b) of this chapter.

(b)(1) If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor, subject to appropriate notice and opportunity for comment in the manner required by section 105(b) (1), (2), and (3) of the Act, may direct the expenditure of funds only in accordance with the substate plan.

(2) The Governor's authority to expend shall remain in effect only until:

(i) The substate grantee corrects the failure;

(ii) The substate grantee submits an acceptable modification; or

(iii) A new substate grantee is designated. (Sections 303(a) and 313(d)).

(3) No determination may be made by the Governor under this paragraph (b) except after the affected substate grantee has been afforded advance written notice of the Governor's intent to exercise such authority, and an opportunity to appeal to the Secretary pursuant to the provisions of § 628.5(c) of this chapter.

(c) When the substate area is the State, the Secretary shall have the same authority as the Governor under paragraphs (a) and (b) of this section.

Subpart E—State Programs

§ 631.40 State program operational plan.

(a) The Governor shall submit to the Secretary biennially, in accordance with instructions issued by the Secretary, a State program operational plan describing the specific activities, programs and projects to be undertaken with the "forty-percent" funds reserved by the Governor under § 631.32(c) of this part.

(b) The State program operational plan shall include a description of the mechanisms established between the Federal-State Unemployment Compensation System, the Trade Adjustment Assistance Program, and programs authorized under Title III of the Act and this part to coordinate the identification and referral of dislocated workers and the exchange of information.

§ 631.41 Allowable state activities.

(a) States may use "forty-percent" funds reserved under § 631.32(c) of this part, subject to the provisions of the State biennial and program operational plans, for:

(1) Rapid response assistance;

(2) Basic readjustment services when undertaken in Statewide, regional or industrywide projects, or initially, as part of rapid response assistance;

(3) Retraining services, including (but not limited to) those in section 314(d) of the Act when undertaken in Statewide, industrywide and regional programs;

(4) Coordination with the unemployment compensation system, in accordance with § 631.37(b) of this part;

(5) Discretionary allocation for basic readjustment and retraining services to

provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expanded in accordance with the substate plan or modification thereof;

(6) Incentives to provide training of greater duration for those who require it; and

(7) Needs-related payments in accordance with section 315(b) of the Act.

(b) Activities should be coordinated with other programs serving dislocated workers, including training under Chapter 2 of Title II of the Trade Act of 1974 and Part 617 of this chapter.

(c) Where appropriate, State-level activities should be coordinated with activities and services provided by substate grantees.

(d) Retraining services provided to individuals with funds available to a State should be limited to those individuals who can most benefit from and are in need of such services.

(e) Other than basic and remedial education, literacy and English for non-English speakers training, retraining services provided with funds available to a substate area should be limited to those for occupations in demand in the area or another area to which the participant is willing to relocate, or in sectors of the economy with a high potential for sustained demand or growth.

(f) Services provided to displaced homemakers should be part of ongoing programs and activities under Title III and this part and not separate and discrete programs.

(g) The provisions of section 107 of the Act and § 629.34 of this chapter apply to State selection of service providers for "forty-percent" funds activities authorized in § 631.32(c) of this part.

Subpart F—Substate Programs

§ 631.50 Substate plan.

(a) In order to receive an allocation of funds under § 631.32 of this part, the substate grantee shall submit to the Governor a substate plan, in accordance with instructions issued by the Governor. Such plan shall meet the requirements of this section and must be approved by the Governor prior to funds being allocated to a substate grantee.

(b) The Governor shall issue instructions and schedules that assure that substate plans and plan modifications conform to all requirements of the Act and this part, and contain the statement required by section 313(b) of the Act.

(c) Substate plans shall provide for compliance with the cost limitation provisions of § 631.14 of this part.

(d) the SJTCC shall review and submit to the Governor written comments on substate plans.

(e) Prior to the submission of the substate plan to the Governor, the substate grantee shall submit the plan to the parties to the agreement described in § 631.35(c) of this part for review and comment (section 313(a)).

(f) The Governor's review and approval (or disapproval) of a substate plan or plan modification, and appeals to the Secretary from disapprovals thereof, shall be conducted according to the provisions of section 105 of the Act and § 628.5 of this chapter, except that in applying that section to this paragraph the words "SDA" and "PIC" shall read "substate grantee" and the phrase "job training plan" shall read "plan" (section 313(c)).

(g) If a substate grantee fails to meet the provisions for plan submission and approval found in this section, the Governor may exercise the by-pass authority set forth at § 631.38 of this part.

(h) When the substate area is the State, the substate plan (and any plan modification(s)) shall be submitted by the Governor to the Secretary. The dates for submission and consideration and the Secretary's review and approval (or disapproval) of the plan or plan modification, and appeals to administrative law judges from disapproval thereof, shall be conducted according to the provisions of § 628.6 of this chapter, except that in applying that section to this paragraph the word "SDA" shall read "substate grantee" and the phrase "job training plan" shall read "plan".

§ 631.51 Allowable substate program activities.

(a) The substate grantee may use seciton 302 (c)(1), (c)(2), and (d) funds allocated by the Governor under § 631.32 of this part for basic readjustment services, retraining services, supportive services and needs-related payments.

(b) The provisions of Part 629 of this chapter apply to funds allocated to substate grantees, as appropriate.

(c) Other than basic and remedial education, literacy and English for non-English speakers training, retraining services provided with funds available to a substate area should be limited to those for occupations in demand in the area or another area to which the participant is willing to relocate, or in sectors of the economy with a high potential for sustained demand or growth.

(d) Retraining services provided to individuals with funds available to a State should be limited to those individuals who can most benefit from and are in need of such services.

§ 631.52 Selection of service providers.

(a) The substate grantee shall provide authorized Title III services within the substate area, pursuant to an agreement with the Governor and in accordance with the approved State plan and substate plan, including the selection of service providers.

(b) The substate grantee may provide authorized Title III services directly or through contract, grant, or agreement with service providers (section 312(d)).

(c) Services provided to displaced homemakers should be part of ongoing programs and activities under Title III and this part and not separate and discrete programs.

(d) The provisions of section 107 of the Act and § 629.34 of this chapter apply to substate grantee selection of service providers as specified in this section.

§ 631.53 Certificates of continuing eligibility.

(a) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility:

(1) May be effective for periods not to exceed 104 weeks,

(2) Shall not include any reference to any specific amount of funds,

(3) Shall state that it is subject to the availability of funds at the time any such training services are to be provided, and

(4) Shall be non-transferable.

(b) Acceptance of a certificate of continuing eligibility shall not be deemed to be enrollment in training.

(c) Certificates of continuing eligibility may be used, subject to the conditions included on the face of the certificate, in two distinct ways:

(1) To defer the beginning of retraining. Any individual to whom a certificate of continuing eligibility has been issued under paragraph (a) of this section shall remain eligible for retraining and education services authorized under this part for the period specified in the certificate, notwithstanding the definition of "eligible dislocated worker" in section 301(a) of the Act or the participant eligibility provisions in § 631.3 of this part, any may use the certificate in order to receive retraining services, subject to the limitations contained in the certificate.

(2) To permit eligible dislocated workers to seek out and arrange their own retraining with service providers approved by the substate grantee. Retraining provided pursuant to the certificate shall be in accord with requirements and procedures established by the substate grantee and shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

(d) Substate grantees shall ensure that records are maintained showing to whom such certificates have been issued, the dates of issuance, and the ultimate disposition of such certificates.

Subpart G—Federal Delivery of Dislocated Worker Services

§ 631.60 General.

Of the funds appropriated for Title III, 20 percent (less those amounts allotted in accordance with section 302(e) of the Act) shall be used for Federal responsibilities as described in Part B of Title III. Subject to the provisions of section 324 of the Act, the Secretary may reserve funds under this part for awards to entities submitting applications for such funds based upon selection criteria published by the Secretary. The Secretary may utilize reserve funds to provide additional assistance to states to assist the states in carrying out programs under this part.

§ 631.61 Application for funding and selection criteria.

To qualify for consideration for funds reserved by the Secretary for activities under section 323 of the Act, applications shall be submitted to the Secretary pursuant to instructions issued by the Secretary on an annual basis specifying application procedures, selection criteria, and approval process. Separate instructions will be issued for each category of grant awards, as determined be the Secretary.

Subpart H—Transition Provisions

§ 631.70 Special provisions for program startup.

(a) In order to provide for the transition from Title III activities as administered through PY 1988, the Governor may use a limited amount of funds allotted for PY 1988 to assist in implementing the new provisions through June 30, 1989, under the following conditions:

(1) Funds are expended to cover only the one-time costs associated with the transition such as: Reconstitution of the SJTCC; establishment of substate areas and substate grantees; establishment of the State dislocated worker unit; establishment of management systems; development of the State plan; and development of substate plans;

(2) Funds so expended will not be taken into account when computing compliance with the cost limitations at 20 CFR 631.13, 53 FR 4277 (February 12, 1988) or the matching requirements at 20 CFR 631.14, 53 FR 4277 (February 12, 1988); and

(3) Allowable costs are limited to salaries and benefits of staff for the time spent on implementing new systems and linkage arrangements and other direct costs associated with the transition.

(4) No funds included under paragraph (a)(2) of this section may be used for the purchase of equipment or computer hardware. (Section 6305 (b)).

(b) The Governor shall certify to the Secretary that the changes in the SJTCC's membership required by section 122, as amended by section 6304(b), have been accomplished no later than January 1, 1989.

(c) The initial Governor's "biennial" and "program operational" State plans developed pursuant to § 631.36 and § 631.40, respectively, of this part shall be for only one program year (PY 1989). These plans shall be modified to incorporate sections applicable for the subsequent biennial period (Program Years 1990–91).

Signed at Washington, DC, this 18th day of October, 1988.

Ann McLaughlin,

Secretary of Labor.

[FR Doc. 88–24456 Filed 10–21–88; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 904 and 941

[Docket No. R–88–1299; FR–2191]

Public Housing Development; Cost Containment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: Section 6(b) of the United States Housing Act of 1937, which required the Secretary to establish prototype costs for the development of Public and Indian Housing, was repealed November 25, 1985. This final rule announces the Public Housing development cost containment policies to be applied by the Department in lieu of the repealed prototype costs.

DATES: *Effective:* Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will *not* become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Project Development Division, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 426–0938. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99–160, approved November 25, 1985) repealed section 6(b) of the United States Housing Act of 1937. Section 6(b) required the Secretary to establish prototype costs based on dwelling construction and equipment costs for the development of Public and Indian Housing. These prototype costs were used to limit costs associated with Public and Indian Housing development.

On September 24, 1986 (51 FR 33898), HUD published a statement announcing the Public Housing development cost containment policies to be applied as a replacement for the statutory prototype cost requirements. The policy statement announced that HUD would develop cost guidelines and would use these guidelines to limit total development cost (TDC) for Public Housing projects. The policy statement also described procedures under which a Public Housing Agency (PHA) may request revisions to the cost guidelines in a market area (or the establishment of a separate market area within an existing market area) and circumstances under which the Department will permit a specific project to exceed the total development cost limitation computed under the cost guidelines. Simultaneously with the publication of the policy statement, HUD published a notice of proposed rulemaking (NPR)(51 FR 33904). the NPR stated that HUD intended to use the policy statement as the basis for a final rule amending the cost containment provisions contained

in 24 CFR Parts 904 and 941. The NPR invited public comment on the cost containment policies.

HUD received two public comments in response to the notice of proposed rulemaking. One, the Public Housing Agency of the City of Saint Paul, Minnesota, stated that the proposal will not encourage greater use of Public Housing development funds because it does not significantly differ from existing cost containment procedures based on prototype cost determinations. The commenter provided an item-by-item comparison of prototype costs and cost guidelines procedures and identified common elements of the two procedures.

We note that the item-by-item comparison ignored one of the most significant differences between the two procedures—*i.e.*, prototype costs were used to compute limitations on total development costs *and* limitations on dwelling construction and equipment (DC&E) costs. (DC&E costs are total development costs, excluding the cost of land, planning, PHA administrative expenses, demolition, site improvement and nondwelling facilities). The cost guidelines, on the other hand, impose no separate limitation on DC&E costs. Additionally, unlike the prototype costs, the cost guidelines can be waived when justified.

The second comment was submitted by the Norwalk, Connecticut Housing Authority. This commenter stated that HUD's costs containment policy will not permit the construction of quality units that will fit into existing neighborhoods and that do not stand out for lack of amenities. HUD disagrees. While HUD's cost containment policies are designed to promote economy, they also specifically permit the approval of costs at a level reasonable and necessary to develop modest, but well-designed, durable, safe and secure dwellings that can be economically maintained, that provide sufficient amenities to guarantee a healthy family life in a neighborhood environment and that provide for energy conservation. HUD does not believe that any revisions of the proposal are necessary in response to this comment.

The final rule includes two revisions to the proposed procedures. First, cost guidelines under the proposed procedures were based on dwelling construction and equipment cost. To impute the total development cost limitation, the guidelines were multiplied by a factor (160 percent for nonelevator projects or 145 percent for elevator projects). This final rule provides that guidelines will reflect total development cost (including the cost of land, demolition, site improvement, construction of nondwelling facilities, *etc.*). This change will eliminate the need to adjust the guidelines to impute total development cost and should increase the accuracy and utility of the total development cost limitation.

Second, under the proposed rule HUD could approve costs for specific projects in excess of the cost guidelines, or revise guidelines for a market area (or establish cost guidelines for a separate market area within an existing market area) if such actions were necessary to develop a project which provides for efficient design, durability, energy conservation, safety, security, economical maintenance and healthy family life in a neighborhood environment. While this standard will continue to be used when HUD determines whether costs in excess of the cost guidelines may be approved for a specific project, the procedures under the final rule have been revised to permit the interim revision of guidelines where "the actual cost of development within the market area (within the separate market area or within the separate market area) is higher than the most recently issued guidelines for the market area."

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, at the address listed above.

This proposal does not constitute a "major rule," as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the proposal indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this final rules does not have a significant economic impact on a substantial number of small entities. Since the final rule will limit development costs for Public Housing projects, it may have an economic impact on builders or developers of Public Housing, some of whom may constitute small entities. However, HUD does not believe that a substantial number of small entities will be affected.

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The OMB control number is 2577–0100.

This rule was listed as item 1036 in the Department's Semiannual Agenda of Regulations published April 25, 1988 (53 FR 13854, 13893) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program numbers and titles are 14.850—Public and Indian Housing (for Part 941) and 14.851—Low-Income Housing Homeownership Opportunities for Low Income Families (for Part 904).

List of subjects

24 CFR Part 904

Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 941

Loan programs: Housing and community development, Public housing, Prototype costs, Cooperative agreements, Turnkey.

For the reasons set forth in the preamble, Title 24 of the Code of Federal Regulations is amended as follows:

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

1. The authority citation for Part 904 continues to read as follows:

Authority: Secs. 2–7, 9–16, and 19, United States Housing Act of 1937 (42 U.S.C. 1437–1437e, 1437g–1473n, and 1437q); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 904.103(b) is revised to read as follows:

§ 904.103 Development.

* * * * *

(b) *Maximum total development cost.* The maximum total development cost stated in the ACC is the maximum amount authorized for development of a project and shall not exceed the amount approved in accordance with § 941.406(a) of this chapter.

* * * * *

PART 941—PUBLIC HOUSING DEVELOPMENT

3. The authority citation for Part 941 continues to read as follows:

Authority: Secs. 4, 5, and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437b, 1437c, and 1437g), sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 941.203 [Amended]

4. In § 941.203, paragraph (c) is removed and paragraphs (d), (e), (f) and (g) are redesignated as paragraphs (c), (d), (e) and (f), respectively.

5. Section 941.204 is revised to read as follows:

§ 941.204 Cost guidelines.

(a) *General.* (1) HUD will establish cost guidelines to ensure that the cost of developing modest non-luxury Public Housing is reasonable. The guidelines will be used for the purpose of reserving funds for new Public Housing projects and, except as provided in § 941.406(a), will represent the maximum total development cost (TDC) that may be approved for a project.

(2) Cost guidelines represent HUD's determination of the current total development costs within a market area for modest, non-luxury Public Housing that is developed in conformity with the minimum property standards, local building codes and requirements, and the housing design and construction standards contained in this part. The cost guidelines are issued for specific unit sizes (*i.e.*, number of bedrooms) and structure types (*i.e.*, detached, semidetached, row, walkup, or elevator) in each market area. For the purposes of this part, market areas are those areas within which trade conditions and economic influences tend to make development costs substantially the same. Each cost guideline is developed with consideration being given to, among other things, the current cost of dwelling and non-dwelling construction and equipment, land, demolition, site improvements and PHA administrative costs.

(b) *Issuance of cost guidelines.* HUD will issue cost guidelines periodically (usually on an annual basis) by notice sent to Public Housing Agencies.

(c) *Interim revisions.* (1) A PHA or HUD field office may request revisions to cost guidelines established for a market area (or the establishment of a separate market area within an existing market area) before the issuance of the next regularly scheduled cost guidelines as described in paragraph (b) of this section. The request must be in the manner and form prescribed by HUD and must be based upon the actual costs to develop modest non-luxury Public Housing. The Assistant Secretary may issue revised guidelines for a market area (or establish a separate market area within an existing market area) if HUD determines that the evidence submitted clearly demonstrates that the actual cost of development within the market area (or within a separate market area within the existing market area) is higher than the most recently issued guidelines for the market area.

(2) HUD will issue with its cost guidelines, a description of the methodology used to compute the cost guidelines and a description of the documentation that must be submitted in support of a request for interim revisions.

6. Section 941.406(a) is revised to read as follows:

§ 941.406 Maximum development cost and advances.

(a) *Maximum total development cost (TDC).* The maximum total development cost (TDC) is calculated by multiplying the number of units for each bedroom size and structure type in the project times the applicable cost guidelines for the bedroom size and structure type and adding the resulting amounts for all units in the project.

(1) The total project cost that may be approved and reserved for a proposed project at the time of the initial reservation of funds may not exceed 100 percent of the maximum TDC based on the most recently issued cost guidelines.

(2)(i) After initial fund reservation and subject to the availability of funds:

(A) A Field Office may approve costs (which include any local donations) and reserve funds for a project up to 100 percent of the maximum TDC based on the most recently issued cost guidelines;

(B) The Regional Administrator may authorize the Field Office to approve costs (which include any local donations) and reserve funds for a project up to 105 percent of the maximum TDC based on the most recently issued cost guidelines; and

(C) The Assistant Secretary may authorize the Field Office to approve costs and reserve funds for a project above 105 percent of the maximum TDC based on the most recently issued cost guidelines.

(ii) The Reginal Administrator or Assistant Secretary, as appropriate, may approve increases under paragraph (a)(2)(i) of this section, if the costs are reasonable and necessary to develop a modest non-luxury project that provides for efficient design, durability, energy conservation, safety, security, economical maintenance, and healthy family life in a neighborhood environment.

(3) If project costs can not be brought within the approvable maximum TDC, the project must be submitted in the form and manner prescribed by HUD to the Headquarters Technical Review Panel. The panel will consider the extent to which cost reduction alternatives are possible to bring the project within the approvable TDC. If the project can not be brought within the approvable maximum TDC, the panel may recommend that the Assistant Secretary approve a higher TDC or terminate the project.

* * * * *

7. Section 941.502(b)(3) and (c)(4) is revised to read as follows:

§ 941.502 Project design and execution of contracts.

* * * * *

(b) * * *

(3) After the Field Office has approved the construction documents and construction cost estimates, the PHA shall advertise for bids. In order to approve execution of the construction contract, the Field Office shall determine that the low bid is responsive to the PHA invitation and will result in a total development cost that does not exceed the Field Office estimate of replacement cost or the maximum total development cost approvable by the Field Office under § 941.406(a).

* * * * *

(c) * * *

(4) In order to approve execution of the contract of sale, the Field Office shall determine that the developer's price does not exceed the Field Office estimate of replacement cost, or result in a maximum total devleopment cost in excess of that approvable by the Field Office under § 941.406(a).

* * * * *

Date: July 25, 1988.

Jacqueline Aamot,

Associate General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 88-24464 Filed 10-21-88; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Safety Standards for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Stay of final rule provision.

SUMMARY: MSHA published a final rule for Safety Standards for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmetal Mines on August 25, 1988 (53 FR 32496) to take effect October 24, 1988. After further Agency analysis and review of public comments MSHA has determined that the effective date of a portion of the berms or guardrails standard should be stayed.

DATES: The final rule takes effect October 24, 1988, except that the effective date of §§ 56.9300(d) and 57.9300(d) is stayed until further notice.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, Room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; phone (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Introduction and Rulemaking Background

The final rule for Safety Standards for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmetal Mines was published on August 25, 1988 (53 FR 32496) as a revised Subpart H—Loading, Hauling and Dumping and a revised Subpart M—Machinery and Equipment, of Parts 56 and 57 of Title 30 of the Code of Federal Regulations. The final rule, which is to be effective on October 24, 1988, represents an updating, revision and reorganization of the existing standards in these areas.

After reviewing the final rule in preparation for implementation, and analyzing comments received at public meetings held for the purpose of describing the application of the rule, the Agency has determined that paragraph (d) of §§ 56.9300 and 57.9300 does not appear to appropriately address MSHA goals and should be reconsidered by the Agency.

II. Stay of §§ 56.9300(d) and 57.9300(d)

Sections 56.9300 and 57.9300 of the final rule address the use of berms or guardrails on elevated roadways. A new paragraph (d) permits an alternative to berms or guardrails for elevated portions of infrequently traveled roadways used only by service or maintenance vehicles. It is the Agency's position that under these limited conditions, berms or guardrails should not be required if other safety precautions can provide at least the same degree of protection. Paragraph (d) of §§ 56.9300 and 57.9300 lists mandatory criteria that would assure the safety of miners using these roadways when berms or guardrails are not present. However, in light of its review and public comments received, MSHA is now reevaluating the appropriateness of the criteria. For example, paragraph (d)(3) of this section requires that reflectors be installed at 25-foot intervals along the perimeter of the elevated roadway. The Agency may reconsider the need to install reflectors along roadways at operations that do not use the roadways at night. The Agency is also reexamining the spacing of the reflectors along the roadways. Other aspects of paragraph (d) may also be reconsidered.

Therefore, the effective date of §§ 56.9300(d) and 57.9300(d) of the final rule is stayed until the Agency has completed its review of alternative provisions. The Agency anticipates completion of its review within one month and publication of a proposed rule as soon as possible thereafter. Petitions for modification granted under the prior standards, §§ 56.9022 and 57.9022, will remain in effect until the conclusion of the rulemaking.

Dated: October 19, 1988.

Roy L. Bernard,

Acting Deputy Assistant Secretary for Mine Safety and Health.

Accordingly, Subpart H, Part 56 and Subpart H, Part 57, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

PART 56—[AMENDED]

1. The authority citation for Part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 56.9300 [Stayed]

2. Section 56.9300(d) is stayed until further notice.

PART 57—[AMENDED]

3. The authority citation for Part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 57.9300 [Stayed]

4. Section 57.9300(d) is stayed until further notice.

[FR Doc. 88–24497 Filed 10–21–88; 8:45 am]

BILLING CODE 4510–43–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3465-8]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving the amended Iowa Chapters 22 and 23 which address EPA's revised stack height requirements. Revision of these regulations satisfies the requirements of Section 110 of the Clean Air Act, as amended. This action cures a deficiency in the Iowa State Implementation Plan (SIP).

DATE: This rulemaking is effective November 23, 1988.

ADDRESSES: Copies of the submittal are available for public inspection during normal business hours at:

Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101;
Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Washington, DC 20460
Iowa Department of Natural Resources, 900 East Grand, Des Moines, Iowa 50319

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236–2893; FTS 757–2839.

SUPPLEMENTARY INFORMATION: On September 3, 1987 (52 FR 33437), EPA published a proposed rulemaking pertaining to revised Iowa regulations affecting stack height credit for dispersion modeling purposes. The state's regulations are contained in its revised Chapters 22 and 23 regulations. The state's revised stack height regulations were adopted after EPA's stack height regulation promulgation of July 8, 1985 (50 FR 27892) to satisfy the requirements of Section 110 of the Clean Air Act, as amended.

Included in EPA's September 3, 1987 (52 FR 33437), proposed rulemaking was a proposal to approve the state's negative declaration with regard to a need to revise its sulfur dioxide emissions limit except for sources in the Muscatine, Iowa, area. The state also committed to an analysis of sources in the Muscatine area to determine what SO_2 emissions limits are appropriate for that area to assure attainment and maintenance of the SO_2 air quality

standard. EPA is assisting the state in this endeavor.

The EPA's stack height regulations were challenged in *NRDC v. Thomas,* 838 F. 2d 1224 (DC Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the DC Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2));

2. Dispersion credit for sources originally designated and constructed with merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A)); and

3. Grandfathering pre-1979 use of the refined H+1.5L formula (40 CFR 51.100(ii)(2)).

Although the EPA generally approves Iowa's stack height rules on the grounds that they satisfy 40 CFR Part 51, EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC v. Thomas,* 838 F. 2d 1224 (DC Cir. 1988). If the EPA's response to the *NRDC* remand modifies the July 8, 1985, regulations, the EPA will notify the state of Iowa that its rules must be changed to comport with the EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by Iowa and source owners or operators.

On September 3, 1987 (52 FR 33437), EPA proposed approval of Iowa's negative declaration concerning a need to revise its SO_2 emission limit outside the Muscatine area. That proposed rule stated that Iowa and EPA are working together to develop an SO_2 emission limit for the Muscatine area. However, pursuant to the January 22, 1988, *NRDC* remand, EPA is deferring action on all Iowa sources because it appears that they may receive credit under one of the provisions remanded to EPA in *NRDC v. Thomas,* 838 F. 2d 1224 (DC Cir. 1988). Iowa and EPA will review these sources when the EPA completes rulemaking to respond to the *NRDC* remand.

The September 3, 1987, proposed rulemaking identified a deficiency in the Iowa stack height regulations concerning the definition of emission limitation or emission standard. That proposed rule cited a letter from the state which committed to revise the state's definition of emission standard before the end of September 1987. On October 21, 1987, the Iowa Department of Natural Resources submitted a revision of its definitions at 567–20.2(455B). The revision deletes "emission standard" and inserts "emission limitation and emission standard mean a requirement established by a state, local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction." This definition is consistent with EPA's definition at 40 CFR 51.100(z). The Iowa Environmental Protection Commission adopted this definition on September 22, 1987. The revision was published in the Iowa Administrative Bulletin on October 21, 1987. Today's action approves this revised definition.

EPA received no public comments on the September 3, 1987, proposed rulemaking.

Action: EPA approves the amended Iowa Chapters 22 and 23 pertaining to stack heights as published in the Iowa Administrative Bulletin on May 21, 1986. EPA approves the Iowa definition of "emission limitation or emission standard" included in Iowa regulation 567–20.2(455B).

The Office of Management and Budget has exempted this rulemaking from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, and Sulfur oxides.

Note: Incorporation by reference of the SIP for the state of Iowa was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 7, 1988.

Lee M. Thomas,

Administrator.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

Subpart Q—Iowa

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. Section 52.820 is amended by adding paragraph (c)(47) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(47) Revised Chapters 22 and 23 regulations pertaining to stack height credits for modeling purposes were submitted on May 20, 1986, by the Iowa Department of Natural Resources. Revised definition of "emission limitation" and "emission standard" at Iowa regulation 567.20.2(455B), Definitions.

(i) Incorporation by reference

(A) Iowa Administrative Bulletin (ARC 6566), amendments to Chapter 22, "Controlling Pollution" and Chapter 23, "Emission Standards for Contaminants" adopted by the Iowa Environmental Protection Commission on April 22, 1986, effective June 25, 1986.

(B) Iowa Administrative Bulletin (ARC 8023) amendment to 567–20.2(455B). Effective September 22, 1987.

[FR Doc. 88–24394 Filed 10–21–88; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 148

[FRL 3465–4]

Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Phase Two; California List and Certain "First Third" Wastes; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: EPA is correcting an error in the final rule establishing effective dates prohibiting the injection of California list wastes (as defined by section 3004(d) of the Resource Conservation and Recovery Act or RCRA), as well as certain wastes prohibited under section 3004(g) of RCRA. These rules were published in the Federal Register on August 16, 1988 (53 FR 30908 *et seq.*).

FOR FURTHER INFORMATION CONTACT: John Atcheson, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5508.

EFFECTIVE DATE: August 8, 1988.

SUPPLEMENTARY INFORMATION: On August 16, 1988, the Agency promulgated rules establishing effective dates prohibiting the land disposal by injection of California list wastes and certain "First Third" wastes (i.e., wastes covered by section 3004(g) of RCRA and prohibited from land disposal on August 8, 1988—the first of three deadlines prohibiting land disposal established under that section of the law).

In the preamble and regulatory language of the proposal to the rule (see 53 FR 14892 *et seq.*) and the preamble to the final rule, the Agency clearly stated that pursuant to section 3004(h) of RCRA, metals, cyanides, and chromium would receive a two-year capacity variance based on lack of alternative capacity. In both the proposal and final rule, the EPA presented extensive data demonstrating that such capacity was not available.

When promulgating the effective date for these and other California list wastes in § 148.12(b) the Agency cross-referenced § 268.32. Section 268.32 does not, however, address metals, chromium, or cyanides and as a result the regulatory language in § 148.12(b) is incomplete. EPA is, therefore, issuing a technical amendment to § 148.12(b) which would clarify that a two-year capacity variance has been granted to all injected wastes covered under section 3004(d) of RCRA, except liquid hazardous waste containing polychlorinated biphenyls at concentrations equal to or exceeding 50 ppm and hazardous waste containing halogenated organic compounds (HOCs) at concentrations equal to or greater than 10,000 mg/kg. These latter wastes were prohibited from disposal in injection wells on August 8, 1988, while the remaining California list wastes will be prohibited on August 8, 1990.

List of Subjects in 40 CFR Part 148

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous materials, Hazardous materials transportation, Hazardous waste, Intergovermental relations, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply, Water pollution control.

Dated: October 11, 1988.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

The following correction is made in FRL–3420–7, Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions, Phase Two; California List and Certain "First Third" Wastes, published in the **Federal Register** on August 16, 1988 (53 FR 30908).

PART 148—[AMENDED]

1. The authority citation for Part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. § 148.12(b) is revised to read as follows:

§ 148.12 Waste specific prohibitions—California list wastes.

* * * * *

(b) Effective August 8, 1990, the following hazardous wastes are prohibited from underground injection:

(1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l;

(2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

(i) Arsenic and/or compounds (as As) 500 mg/l;

(ii) Cadmium and/or compounds (as Cd) 100 mg/l;

(iii) Chromium (VI) and/or compounds (as Cr VI) 500 mg/l;

(iv) Lead and/or compounds (as Pb) 500 mg/l;

(v) Mercury and/or compounds (as Hg) 20 mg/l;

(vi) Nickel and/or compounds (as Ni) 134 mg/l;

(vii) Selenium and/or compounds (as Se) 100 mg/l; and

(viii) Thallium and/or compounds (as Tl) 130 mg/l;

(3) Liquid hazardous waste having a pH less than or equal to two (2.0); and

(4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1,000 mg/kg.

* * * * *

[FR Doc. 88–24347 Filed 10–21–88; 8:45 am]

BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1d

Rural Labor; Immigration Reform and Control Act of 1986

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 7 CFR Part 1d, which defines fruits, vegetables, and other perishable commodities as prescribed by section 302(a) of the Immigration Reform and Control Act of 1986, Pub. L. No. 99–603, 100 Stat. 3359 (hereinafter referred to as "the Act"). This proposed rule will assist the Immigration and Naturalization Service in determining the special agricultural workers to be admitted into the United States for temporary residence.

DATE: To be considered, comments must be received no later than November 23, 1988.

ADDRESS: Send comments to Al French, Special Assistant for Agricultural Labor to the Assistant Secretary for Economics, Room 227–E, Administration Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250. Written comments received may be inspected in Room 227–E of the Administration Building, 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Al French, Special Assistant for Agricultural Labor to the Assistant Secretary for Economics, Room 227–E, Administration Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447–4737.

SUPPLEMENTARY INFORMATION:

Background

Section 302(a) of the Act directed the Secretary of Agriculture to publish regulations defining the fruits, the vegetables, and the other perishable commodities in which field work related to planting, cultural practices, cultivating, growing, and harvesting will be considered "seasonal agricultural services." On June 1, 1987, the United States Department of Agriculture (USDA) published its final rule (52 FR 20372), including the determination that seed for propagation was not a fruit, vegetable, or other perishable commodity within the meaning of the Act. This proposed rule redefines seed as it applies to lettuce seed.

Lettuce Seed

Section 1d.5 of the rule defined "fruits" to mean "the human edible parts of plants which consist of the mature ovaries and fused other parts or structures, which develop from flowers or inflorescence." 52 FR 20372 (June 1, 1987). Section 1d.10 defined vegetables to mean "the human edible herbaceous leaves, stems, roots or tubers of plants, which are eaten, either cooked or raw, chiefly as the principal part of a meal, rather than a dessert." 53 FR 31630 (August 19, 1988). Section 1d.7 of the rule defined "other perishable commodities" to mean "those commodities which do not meet the definition of fruits or vegetables, that are produced as a result of seasonal field work, and have critical and unpredictable labor demands." Section 1d.3 of the rule defined "critical and unpredictable labor demands" to mean "that the period during which field work is to be initiated cannot be predicted with any certainty 60 days in advance of need." In the Supplementary Information portion of the proposed rule, USDA explained that "critical and unpredictable labor demands" was defined to make it clear that the use of alien workers is predicated upon circumstances which create the critical, yet unpredictable demand for a labor force on short notice. 52 FR 13247 (April 22, 1987).

Since seed for propagation is not a human edible commodity, it does not fit within the meaning of either "fruits" or "vegetables." However, human edible seeds, such as sunflower seed, do fit within the definition of "fruits." The rule did not recognize seed for propagation as a commodity that was either included or excluded as an "other perishable commodity." In the Supplementary Information portion of the final rule, it was stated that several comments had been received as to various seed crops but that "[n]one of the comments was so specific or informative as to present a convincing case that any of these seed crops meet the standards for criticality or unpredictability which we have deemed necessary to measure the inclusion or exclusion of any commodity as perishable." 52 FR 20375 (June 1, 1987). However, upon request and the submission of appropriate information and explanation, we have considered the labor requirements of lettuce seed production and determined that it meets the requisite standard of critical and unpredictable labor demands necessary for inclusion as an "other perishable commodity."

The production of lettuce seed requires all of the activities necessary for the production of human edible lettuce plus additional critical and unpredictable labor demands regarding field work with respect to the harvesting and drying of the seed. Lettuce for seed is planted as seed or small transplants. Irrigation is required for germination and growth. The plants must be thinned and weeded. The heads of the lettuce are removed so that the plants will branch out and ultimately produce seed. All of these activities require field work performed by manual laborers. The timing of the deheading is very critical and unpredictable as the farmer must determine when the heads are at proper maturity and this cannot be forecast with any degree of certainty 60 days in advance. If the deheading is done too early, it must be done again; if several days too late, the plants will not produce seeds that will germinate. At the proper time, the plants are cut from their roots and laid upon canvas to dry. During the drying operation, they must be turned two to three times a day. After drying, the plants are beaten to release the seed, which is then collected on the canvas. Alternatively, some lettuce seed is harvested by shaking the seed into buckets and then putting the seed out to dry. In either case, field work by manual laborers must be performed to harvest the seed within a few days of proper maturity. If harvested too late, the germination of the seed is substantially reduced; if harvested too early, the seed is too immature. The timing of the harvest is unpredictable due to changing climatic conditions and cannot be

forecast with any degree of certainty 60 days in advance.

After consideration of the field work required in the planting, cultural practices, cultivation, growing, and harvesting of lettuce seed, USDA has determined that the production of lettuce seed entails critical and unpredictable labor demands and that it should be included as another perishable commodity.

Regulatory Impact

The Assistant Secretary for Economics has reviewed this proposed rule in accordance with Executive Order No. 12291 and has determined that it is not a major rule. Under the framework of the Act, the Immigration and Naturalization Service (INS) will use this proposed rule to assist it in determining which special agricultural workers will be admitted into the United States for temporary residence. Thus, the primary benefits of this proposed rule are internal to the operation of the United States government.

This action, in and of itself, will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individuals, Federal, state, or local government agencies, or geographic regions; or have a significant effect on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This proposed rule determines whether lettuce seed meets the definition of "other perishable commodities" for purposes of clarifying the term "seasonal agricultural services" as it relates to lettuce seed. The proposed rule does not contain any compliance or reporting requirements, or any timetables. The proposed rule will assist the INS in determining the special agricultural workers to be admitted for temporary residence. Thus, the proposed rule, in and of itself, will have no significant effect upon small entities.

Paperwork Reduction Act

This proposed rule does not require additional procedures or paperwork not already required by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502, et seq.) are inapplicable.

National Environmental Policy Act

This proposed rule will not have an impact upon the environment.

List of Subjects in 7 CFR Part 1d

Immigration, Rural labor.

Accordingly, it is proposed to amend Part 1d—Rural Labor—Immigration Reform and Control Act of 1986—Definitions, as follows:

PART 1d—[AMENDED]

1. The authority citation for Part 1d continues to read as follows:

Authority: 8 U.S.C. 1160

2. Section 1d.7 is revised to read as follows:

§ 1d.7 Other perishable commodities.

"Other perishable commodities" means those commodities which do not meet the definition of fruits or vegetables, that are produced as a result of field work, and have critical and unpredictable labor demands. This is limited to Christmas trees, cut flowers, herbs, hops, horticultural specialties, lettuce seed, spanish reeds (arundo donax), spices, sugar beets, and tobacco. This is an exclusive list, and anything not listed is excluded. Examples of commodities that are not included as perishable commodities are animal aquacultural products, birds, dairy products, earthworms, fish including oysters and shellfish, forest products, fur bearing animals and rabbits, hay and other forage and silage, honey, horses and other equines, livestock of all kinds including animal specialties, poultry and poultry products, sod, sugar cane, wildlife, and wool.

Done at Washington DC, this 18th day of October 1988.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88-24477 Filed 10-21-88; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 87-168]

Importation of Okra From the Dominican Republic

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow okra produced in the Dominican Republic to be entered into the United States without treatment for the pink bollworm, with certain restrictions on the areas into which it may be moved. Under this proposal, the untreated okra could be moved into any area of the United States except: (1) California, during March 16 through December 31, inclusive; and (2) Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentrucky, Missouri, or Virginia south of the 38th parallel, during May 16 through November 30, inclusive. Under these conditions, the okra would not present a pest risk because the areas into which the okra could be moved are either already generally infested with the pink bollworm or would not have the host material to sustain an infestation. This action would relieve unnecessary restrictions on the importation of okra produced in the Dominican Republic.

DATE: Consideration will be given only to comments postmarked or received on or before December 23, 1988.

ADDRESSES: Send an original and three copies of written comments to Regulatory Analysis and Development, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Rd., Hyattsville, MD 20782. Please state that your comments refer to Docket No. 87-168. Comments received may be inspected a USDA, 14th and Independence Avenue SW., Room 1141 South Bldg., between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Senior Operations Officer, Import Unit, PPQ, APHIS, USDA, Room 667, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8248.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 prohibit or restrict the importation of certain fruits and vegetables, as well as plants and portions of plants used as packing materials, into the United States because of the risk that they could introduce injurious insects.

Oka produced in the Dominican Republic presents a risk of introducing the pink bollworm (*Pectinophora gossypiella* (Saunders)). The pink bollworm is one of the most serious pests of cotton. Pink bollworms can cause extensive damage to cotton by feeding inside the squares and bolls. Okra is probably the preferred host after cotton.

Under § 319.56-2p (referred to below as the regulations), okra from the Dominican Republic may be imported into the United States without restriction as to destination only if it is treated for the pink bollworm. Treatment consists of fumigation with methyl bromide. Okra produced in the

Dominican Republic may be entered into the United States without treatment for the pink bollworm only if the okra is entered into the United States through a North Atlantic port with approved treatment facilities and is destined to Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia that is north of the 38th parallel.

We are proposing to allow okra produced in the Dominican Republic to be moved into additional areas of the United States without treatment for the pink bollworm under certain geographic and seasonal restrictions, which are discussed below. Under these conditions, the untreated okra would not present a risk of introducing the pink bollworm into the United States because the areas into which it could be moved are either already generally infested with the pink bollworm or would not have the host material to sustain an infestation.

This proposal would allow okra produced in the Domincan Republic to be entered into the United States under the same conditions as okra produced in Mexico. It is based not only on an assessment of the risk associated with pink bollworm, but also on a determination that the untreated okra would not present a significant risk introducing other injurious insects if allowed to move into the United States as specified. This determination is based on an assessment of the overall pest risk associated with okra produced in the Dominican Republic. The current regulations concerning okra from Mexico also are based on an assessment of the pest risk associated with okra produced in that country. These assessments consisted of a survey of scientific literature and a review of pest interception reports related to okra produced in those countries.

We are not prepared at this time to propose similar revisions in the regulations for importing okra from other countries because we do not have adequate information on the pest risk associated with okra produced in these countries. Pest risk assessments are conducted for specific fruits and vegetables from specific countries as necessary to satisfy requests from importers. Broader studies are not possible because of manpower and budgetary constraints. However, pest risk assessments concerning okra produced in other countries could be initiated if warranted by requests to import the okra under conditions such as we are now proposing for okra produced in the Dominican Republic. If it appeared that okra produced in other countries could be safely imported under these conditions, we would consider amending the regulations to allow the requested importations.

Arizona, New Mexico, Oklahoma, and Texas

In the continental United States, the pink bollworm is firmly established in the southwestern states of Arizona, New Mexico, Oklahoma, and Texas, which are part of the Cotton Belt. These states are under fedeal quarantine (7 CFR 301.52) to prevent the spread of the pink bollworm into noninfested areas of the United States. However, the extent of the pink bollworm infestation in these states makes an eradication program there impracticable. Under these circumstances, the pink bollworm would present no new pest risk, during any time of the year, if it were carried into these states in okra from the Dominican Republic. Therefore, we are proposing to allow okra produced in the Dominican Republic to be moved into Arizona, New Mexico, Oklahoma, and Texas, without treatment for the pink bollworm during and time of the year.

Nevada, California, and the Southeastern United States

Host plants of the pink bollworn are grown in Nevada, California and the southeastern states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and parts of Illinois, Kentucky, Missouri, and Virginia south of the 38th parallel. The regulations require that okra from the Dominican Republic be treated for the pink bollworm if destined for these areas to prevent the introduction of the pink bollworm. However, host plants of the pink bollworm are grown in Nevada, California, and the southeastern United States only during certain times of the year. Moreover, during the growing season, the suitability of host plants as a food source for pink bollworm depends, in part, on the stage of development of the plant. If pink bollworm were introduced into these areas when host plants were unavailable or unsuitable as a food source, the pest would not survive.

Based on the growing season of pink bollworm host plants in the southeastern states and Nevada, we have determined that the host material necessary to sustain an infestation of the pink bollworm is present only during May 16 throughout November 30, inclusive. Based on the somewhat longer growing season of host plants in California, we have determined that the host material necessary to sustain an infestation of the pink bollworm is present in that state only during March 16 through December 31, inclusive.

Therefore, we are proposing to allow okra produced in the Dominican Republic to be moved into California, without treatment for the pink bollworm, except during March 16 through December 31, inclusive. Also, we are proposing to allow okra produced in the Dominican Republic to be moved into Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel, without treatment for the pink bollworm, except during May 16 through November 30, inclusive.

Miscellaneous

We propose to add five definitions as follows:

"Enter into the United States": To introduce into the commerce of the United States after release from government detention.

"Import into the United States": To bring within the territorial limits of the United States.

"Port of arrival": The first place at which a carrier containing okra stops to unload cargo after coming within the territorial limits of the United States.

"Permit": A document issued for an article by Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, stating that the article is eligible for importation into the United States.

"United States": The several states of the United States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories and possessions of the United States."

Where now the regulations allow the "entry" of okra into the United States if it is "destined to" certain areas of the United States, we propose to allow the "entry" of okra into the United States if, among other things, it is not moved into certain areas of the United States. We also propose to replace the term "port of entry" with "port of arrival." These changes appear necessary to clarify geographical restrictions on the movement of okra into and within the United States. Allowing "entry" of okra if it is "destined to" certain areas, and

prescribing certain "ports of entry" may give the impression that okra subject to the regulations may arrive in the United States at any point and transit any area of the country as long as it is entered into the commerce of the United States at certain ports or in certain geographical areas and is destined for particular areas of the United States. This is not the case because the okra would present a risk of introducing pink bollworm if moved without treatment into certain areas of the United States at certain times of the year. Moreover, to reduce the risk of okra introducing pink bollworm or other injurious insects, we propose to specify that the okra must be presented for inspection at the port of arrival (defined as proposed above).

We propose to revise the provision concerning treatment of okra for pests other than the pink bollworm. This provision is contained in § 319.56–2p(c)(6), (d)(2), and (e), but wording differences in the three paragraphs may cause confusion. Paragraph (d)(2) provides that okra is "subject to fumigation requirements if any plant pests of quarantine significance, in the judgment of the inspector, other than pink bollworm are found upon port of entry inspection * * *" In paragraphs (c)(6) and (e), however, the phrase, "other than pink bollworm" does not appear. Because of this omission, paragraphs (c)(6) and (e) could be construed to mean that the okra would be subject to fumigation for pink bollworm if that pest were found upon inspection at the port of entry. For reasons explained earlier, okra that qualifies for entry without treatment for the pink bollworm does not have to be fumigated for pink bollworm, even if pink bollworm is found upon inspection of the okra. Our proposed revision would clarify that we are concerned with pests of quarantine significance other than the pink bollworm, and that by "pests of quarantine significance" we mean injurious insects that do not exist in the United States or are not widespread in the United States. Our proposed revision also would clarify that if any of these injurious insects are found, the okra would remain eligible for entry into the United States only if treated for the insects in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations.

We are also making nonsubstantive, editorial changes to make the regulations easier to understand.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would allow okra produced in the Dominican Republic to be moved into Arizona, New Mexico, Oklahoma, and Texas at any time of the year without treatment for the pink bollworm. It also would allow okra produced in the Dominican Republic to be moved into California, Nevada, and the Southeastern United States without treatment for the pink bollworm at certain times of the year. Identical provisions are in effect for okra from Mexico, making Mexico the only current source of untreated, imported okra for these states. Importers prefer untreated okra since treatment delays entry of the okra, shortens shelf life, and adds to the costs of importation.

If this proposed rule is adopted, the proximity of the Dominican Republic to the Southeastern United States could give importers in these states a convenient second source of untreated okra during the late fall, winter, and early spring. However, we know of only one entity interested in importing okra produced in the Dominican Republic into the United States without treatment for the pink bollworm. Importers in Arizona, New Mexico, Oklahoma, Texas, California, and Nevada would probably continue to buy must of their okra from Mexico. We do not expect that adoption of the proposed rule would affect the total amount of okra imported into the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR 3015, Subpart V.)

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Incorporation by reference, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, we propose to amend 7 CFR Part 319 as follows:

1. The authority citation for Part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 319.56–2p, paragraph (a)(3) would be revised by removing "and" before "(ii)", removing the period after "Agriculture" and adding in its place a semicolon; and adding five definitions to read as follows:

§ 319.56–p [Amended]

(a) * * *

(3) * * * Agriculture; (iii) "Enter into the United States" means to introduce into the commerce of the United States after release from government detention; (iv) "Import into the United States" means to bring within the territorial limits of the United States; (v) "Port of arrival" means the first place at which a carrier containing okra stops to unload cargo after coming within the territorial limits of the United States; (vi) "Permit" means a document issued for an article by Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, stating that the article is eligible for importation into the United States; and (vii) "United States" means the several states of the United States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all other territories and possessions of the United States."

* * * * *

3. In § 319.56–2p, paragraph (b)(1), the phrase "(Pectinophoragossypiella (Saund.)" would be revised to read "(*Pectinophora gossypiella* (Saunders)".

4. In § 319.56–2p, paragraph (b)(6), "as a condition of importation will be limited to entry" would be revised to

read "for the pink bollworm may be imported into the United States only"; and "as a condition of importation will be enterable" would be revised to read "for the pink bollworm may be imported into the United States".

5. In § 319.56–2p, paragraph (c) would be revised to read as follows:

* * * * *

(c) *Importations of okra without treatment from Mexico and the Dominican Republic.* Okra produced in Mexico or the Dominican Republic may be entered into the United States without treatment for the pink bollworm only if:

(1) The okra is imported from the Dominican Republic or Mexico under permit;

(2) The okra is made available for examination by an inspector at the port of arival and remains at the port of arrival until released by an inspector;

(3) During March 16 through December 31, inclusive, the okra is not moved into California; and

(4) During May 16 through November 30, inclusive, the okra is not moved into Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel.

* * * * *

6. In § 319.56–2p, paragraph (d), the paragraph designation "(1)" would be removed; "may enter" would be revised to read "may be imported into"; "port of entry" would be revised to read "port arrival; "fumigation" would be revised to read "treatment"; "except as provided in paragraph (d)(2) of this section" would be revised to read "for the pink bollworm"; and paragraph (d)(2) would be removed.

7. In § 319.56–2p, paragraph (e), "may enter" would be revised to read "may be imported into"; "fumigation" would be revised to read "treatment"; "port of entry" would be revised to read "port of arrival"; and the last sentence would be removed.

8. In § 319.56–2p, a new paragraph (f) would be added to read as follows:

* * * * *

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds injurious insects, other than the pink bollworm, that do not exist in the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. See § 300.1 of this chapter, "Materials incorporated by reference." If the treatment authorized by the Plant Protection and Quarantine Treatment Manual is not available, or if no authorized treatment exists, the okra may not be entered into the United States.

Done in Washington, DC this 19th day of October, 1988.

Lary B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–24480 Filed 10–21–88; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Flow Control Conditions for the Standby Liquid Control System in Boiling Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The NRC is proposing to amend its regulations concerning the flow control conditions for the standby liquid control system in a boiling water reactor. The proposed rule would set forth conditions and considerations for determining the reactivity control capacity of a BWR standby liquid control system. The proposed changes are necessary to clarify the existing regulation.

DATE: Comment period expires December 23, 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to those comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary: U.S. Nuclear Regulatory Commission, Washington, DC 20555; ATTN: Docketing and Service Branch. Deliver comments to 11555 Rockville Pike, Rockville, MD between 7:30 a.m. and 4:15 p.m. weekdays. Copies of comment received may be examined at the NRC Public Document Room (PDR) at 2120 L Street NW., Washington, DC, lower level.

FOR FURTHER INFORMATION CONTACT: William R. Pearson, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–3764.

SUPPLEMENTARY INFORMATION: On June 26, 1984, the Commission published in the Federal Register (49 FR 26036) a final rule entitled "Reduction of Risk from Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants," which revised the regulations in 10 CFR Part 50. The final rule required, at § 50.62(c)(4), that boiling water reactors have a standby liquid control system (SLCS) with a minimum flow rate and boron content equivalent in [reactivity] control capacity to 86 gallons per minute (gpm) of 13 weight percent of sodium pentaborate solution. The rule did not specify the size of the reactor pressure vessel (RPV) into which this solution should be injected. Questions have been raised, especially from licensees with a smaller RPV, concerning the interpretation of the phrase, "equivalent in control capacity." On January 28, 1985, a generic letter that provided clarification of this phrase was issued to appropriate licensees (PDR accession number 8501290633). This letter provided the basis for the flow rate and weight percent of sodium pentaborate decahydrate and described how equivalency could be achieved for a smaller RPV. The staff considers the contents of this letter, which were derived from the underlying materials considered when the rule was developed, to be technically correct. The letter is applicable to BWRs with (1) volume of water in the suppression pool per megawatt of core power ratios, (2) reactivity control systems, and (3) core designs similar to currently licensed BWR/1–6 designs. The language used in the existing rule is unclear and subject to differing interpretations. The staff proposes to clarify the language to more precisely reflect the underlying technical bases.

The standby liquid control system (SLCS) is designed to meet the requirements of general design criterion (GDC) number 26 of Appendix A to Part 50. GDC 26 states, "Two independent reactivity control systems of different design principles shall be provided. One of the systems shall use control rods, preferably including a positive means for inserting the rods, and shall be capable of reliably controlling reactivity changes to assure that under conditions of normal operation, including anticipated operational occurrences, and with appropriate margins for malfunctions such as stuck rods, specified acceptable fuel design limits are not exceeded. The second reactivity control system shall be capable of reliably controlling the rate of reactivity changes resulting from planned, normal

power changes (including xenon burnout) to assure acceptable fuel design limits are not exceeded. One of the systems shall be capable of holding the reactor core subcritical under cold conditions." In the case of a boiling water reactor, the second reactivity control system is the SLCS. In addition, the SLCS is used to reduce risk from ATWS.

The SLCS consists of a tank containing the sodium pentaborate decahydrate solution, two pumps, control instrumentation, appropriate piping, and means for testing the system without injecting the borate solution into the RPV. Sodium pentaborate decahydrate ($NA_2B_{10}O_{16}10H_2O$) solution is prepared from a mixture of borax and boric acid dissolved in water. The solution nominally is a 13 weight percent solution of sodium pentaborate decahydrate in which the boron-10 isotope is at natural abundance (about 19.78%). A description of the SLCS and its functions is given in the General Electric Co. document NEDO–24222 (80 NEDO 21, Class I, February 1981), entitled "Assessment of BWR Mitigation of ATWS, Volume I (NUREG–0406, Alternate No. 3)," sections 3.2, 6.1.3, and 7.2.10.

The important parameters for reactivity control are the concentration of the boron-10 isotope (which has a large thermal neutron capture cross-section) in the RPV cooling water and the time required to achieve this concentration. These parameters are in turn dependent upon the RPV volume (and therefore RPV inside diameter), boron injection flow rate, boron solution concentrtion, and boron-10 isotopic enrichment level. The standard that is specified in § 50.62(c)(4), (86 gpm of 13 weight percent sodium pentaborate solution) assumes a boron-10 isotopic enrichment at the naturally occurring level and was intended to represent the reactivity control achieved for a BWR core design in a RPV with an inside diameter of 251 inches. Safety analyses show however, that equivalent reactivity control is achieved for a given core design in a different size RPV when the same boron-10 isotope concentration is provided within that RPV. Hence for a given core design, any combination of injection rate, boron solution concentration level, boron-10 isotopic enrichment level, and RPV volume that results in the same boron-10 concentration level within that RPV will provide reactivity control equivalent to the standard. For example, 16.5 gpm of 26 weight percent sodium pentaborate solution enriched to twice the natural level of boron-10 content injected into a 218 inch inside diameter RPV provides reactivity control equivalent to the standard.

If sodium pentaborate decahydrate solution enriched in the boron-10 isotope is used, procedures should be established to assure proper disposal of the non-enriched solution and ensure that the boron-10 isotope concentration in the new solution is sufficient to shut down the reactor.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Thus, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under control number 3150–0011.

Regulatory Analysis

Since this proposed rule is of a clarifying nature and does not substantially change existing regulatory requirements, the regulatory analysis prepared for the final rule entitled "Reduction of Risk from Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants," published June 26, 1984 (49 FR 26036) is still valid and will be used for this rule. The analysis is available for inspection in the Public Document Room, 2120 L Street NW., Washington, DC, Lower Level. Single Copies of the analysis may be obtained from William R. Pearson, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3764.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities and that therefore a regulatory flexibility analysis need not be prepared. This rulemaking action would affect only licensees that own and operate nuclear utilization facilities licensed under sections 103 and 104 of the Atomic Energy Act of 1954, as amended. These licensees do not fall within the definition of small businesses set forth in Section 3 of the Small Business Act (15 U.S.C. 632) or within the Small Business Size Standards set forth in the regulations issued for the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendment to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.23, 50.35, 50.55, and 50.56, also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 5092 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec.

108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958 as amended (42 U.S.C. 2273); §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54 and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.9, 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.62, paragraph (c)(4) is revised to read as follows:

§ 50.62 Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants

* * * * *

(c) * * *

(4) Each boiling water reactor must have a standby liquid control system (SLCS) with the capability of injecting into the reactor pressure vessel a borated water solution at such a flow rate, level of boron concentration and boron-10 isotope enrichment, and accounting for reactor pressure vessel volume, that the resulting reactivity control is at least equivalent to that resulting from injection of 86 gallons per minute of 13 weight percent sodium pentaborate decahydrate solution at the natural boron-10 isotope abundance into a 251 inch inside diameter reactor pressure vessel for a given core design. The SLCS and its injection location must be designed to perform its function in a reliable manner. The SLCS initiation must be automatic and must be designed to perform its function in a reliable manner for plants granted a construction permit after July 26, 1984, and for plants granted a construction permit prior to July 26, 1984, that have already been designed and built to include this feature.

* * * * *

Dated at Rockville, Maryland, this 12th day of October 1988.

Victor Stello, Jr.

Executive Director for Operations.

[FR Doc. 88-24490 Filed 10-21-88; 8:45 am]

BILLING CODE 7590-01-M

---

10 CFR Part 52

Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On August 23, 1988 (53 FR 32060), the NRC published for public comment a proposed rule which would provide for issuance of early site permits, standard design certifications, and combined construction permits and conditional operating licenses for nuclear power plants. The comment period for this proposed rule was to have expired on October 24, 1988. However, several organizations and individuals have requested, or have otherwise expressed an interest in, an extension of the comment period. Moreover, the agency faces certain exigencies of scheduling which did not arise until recently. Therefore, balancing the desirability of developing a final rule as soon as practicable against the needs of commenters and the constraints of scheduling, the NRC has decided to extend the comment period for an additional fourteen days. The extended comment period now expires on November 7, 1988.

DATES: The comment period has been extended and now expires on November 7, 1988. Comments received after this date will be considered if practical to do so, but only those comments received on or before this date can be assured of consideration.

ADDRESSES: Comments may be sent to the Secretary of the Commission, Attention: Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be hand-delivered to One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:30 am and 4:15 pm weekdays. Copies of the comments received may be examined at the Commission's Public Document Room at 2120 L Street NW., Washington, DC, between the hours of 7:45 am and 4:15 pm weekdays.

FOR FURTHER INFORMATION CONTACT: Steven Crockett, Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-1600.

Dated at Rockville, MD, this 18th day of October 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-24498 Filed 10-21-88; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Nondiscrimination Requirements

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Request for comments.

SUMMARY: Section 701.31 of the NCUA Rules and Regulations ("Nondiscrimination Requirements") (12 CFR 701.31) seems not to need major revision. Nevertheless, the NCUA Board, as part of its regulatory review policy, requests suggestions on possible improvements to this section, particularly ways to update or simplify the regulation, or make it more easily comprehensible for Federal credit unions ("FCU's").

DATE: Comments must be received on or before January 23, 1988.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW; Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Staff Attorney, Office of General Counsel, NCUA, at the above address, or telephone; (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 701.31 of the NCUA Rules and Regulations (12 CFR 701.31) was originally designed to summarize for FCU's in one place the prohibitions on discrimination in real estate lending activities contained: in the Federal Fair Housing Act (41 U.S.C. 3601 *et seq.*) and Department of Housing and Urban Development regulations issued thereunder; in the Equal Credit Opportunity Act (15 U.S.C. 1691) and the Federal Reserve Board's Regulation B (12 CFR 202.1-.14) issued thereunder; and in certain major court cases interpreting these provisions.

The NCUA Board invites comments on all aspects of the regulation, particularly:

1. Whether the regulation has been a helpful resource for FCU's;

2. Whether, if so, any parts of the regulation should be updated, simplified, or made more easily comprehensible.

Regulatory Procedures

The request for comments makes no substantive changes to the current rule. Hence, neither a Regulatory Flexibility Analysis nor analysis under the Paperwork Reduction Act is required.

Executive Order 12612

Section 701.31 does not have significant federalism implications. Both federally and state chartered lenders are subject to Federal statutes affecting non-discrimination in real estate lending. This regulation explains the law and sets forth previously established guidelines for federally-chartered credit unions; it adds no new obligations.

List of Subjects in 12 CFR Part 701

Credit unions, Discrimination in real estate lending.

By the National Credit Union Administration Board on October 13, 1988.

Becky Baker,

Secretary of the Board.

[FR Doc. 88-24503 Filed 10-21-88; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Proposed amendment.

SUMMARY: This is a proposed rule to amend the existing §701.20—Surety Bond and Insurance Coverage for Federal Credit Unions ("FCU's"). Section 701.20 sets forth the requirements for surety bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (e.g., losses due to theft, vandalism). The proposed change would require a provision in FCU bonds assuring that surety notifies NCUA whenever bond coverage of a credit union is terminated in its entirety, or when it is terminated on an individual employee or official.

DATE: Comments must be received on or before January 23, 1989.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, General Counsel, or Allan Meltzer, Assistant General Counsel, at the above address, or telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: Approved bond forms currently in use include a provision requiring that the surety notify NCUA when the bond of a Federal Credit Union is terminated in its entirety. However, there is no regulatory requirement for such notification, nor is there a requirement that the NCUA be notified in the event the bond is cancelled only as to one or more officials or employees.

When the surety bond coverage of a credit union or an individual employee or official of a credit union is terminated, NCUA, from a supervisory and regulatory perspective, clearly has an interest in the fact that coverage has been terminated and in the facts underlying the termination.

Moreover, experience has shown that in a small but significant number of cases involving termination as to an individual, the employee or official has been allowed to continue serving as before either because the officials were unaware that this continued service was contrary to the FCU Act and NCUA regulations, or because they believed such termination was wrongful. In addition, the circumstances surrounding a termination of coverage may well be of significance to NCUA in its insuring capacity by disclosing a loss or potential loss to the National Credit Union Share Insurance Fund ("NCUSIF").

The Board therefore believes that NCUA-insured credit unions will benefit if the Agency receives notification whenever coverage on an employee or official is terminated, and that the appropriate method of assuring this is to require such notification in the bond. This would allow the Board to monitor situations in which unbonded individuals might continue to serve, as well as to assure that situations which might lead to potential losses for the NCUSIF are brought to the Board's attention at the earliest possible time.

In addition, the Board proposes requiring notification by surety when the bond of a credit union as a whole is terminated. While this is presently required by the provisions of approved bond forms, a regulatory requirement will emphasize the importance the Board attaches to such notification and assure that future bond forms include such a provision.

The Board requests comments on this proposal from federally-insured credit unions, bonding companies, and other interested parties. In addition, the Board requests comments on the following specific questions:

a. Should the information received by the Board pursuant to the proposed regulation be made available to its sister Federal financial regulatory agencies? To interested federally-insured credit unions? To others?

b. Would dissemination of this information be a "routine use of such information" pursuant to the Privacy Act (12 U.S.C. 552a)?

c. Should the requirement of notification be limited only to federally-chartered credit unions? The provision in currently approved bond forms only requires that the surety notify the supervisory authority of the credit union whose bond is terminated in its entirety. Because § 741.1 of the NCUA Rules and Regulations established the requirements of § 701.20 as minimum standards for all federally-insured credit unions, the proposed rule may increase the paperwork burden on surety companies, requiring them to determine in every instance of a termination whether a state-chartered credit union is federally insured. Would application of this proposal to all federally-insured credit unions, including state-chartered institutions, impose an undue burden on surety companies by requiring them to determine which state-chartered credit unions are federally insured? Should regulation of such notification in the case of state-chartered, federally-insured credit unions be left to the discretion of the states?

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certified that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed rule will not impose an additional burden upon credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule would impose two paperwork requirements. Bonding companies would need to add an additional provision in their bond forms, and, pursuant to this provision, each bonding company would need to report terminations to the NCUA Board. It seems likely that these requirements will affect less than ten surety bond companies; therefore, the requirements of the Paperwork Reduction Act do not apply.

Executive Order 12612

While §701.20 applies only to Federal credit unions, §741.1 establishes the requirements of §701.20 as minimum standards for all federally-insured credit unions. Thus, this proposed change may affect state-chartered, federally-insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined, however, that the proposed amendment will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels

of government. Further, while the proposed amendment may affect state-chartered, federally-insured credit unions, it will not preempt provisions of state law or regulation.

List of Subjects in 12 CFR Part 701

Credit unions, Fidelity bond, Insurance coverage, Bond forms.

By the National Credit Union Administration Board on October 13, 1988.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations as follows:

PART 701—[AMENDED]

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1767, 1782, 1784, 1787, 1789, and 1798.

2. It is proposed that §701.20(c) of the NCUA Rules and Regulations be revised to read as follows:

(c) Minimum Coverage; Approved Forms. Every Federal credit union will maintain bond and insurance coverage with a company holding a certificate of authority from the Secretary of the Treasury. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America (revised to May, 1950) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Forms 581 and 582 are also approved. Any other basic bond forms, and all riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. Fidelity bonds must provide coverage for the fraud or dishonesty of all employees, directors, officers, and supervisory and credit committee members. Notwithstanding the foregoing, effective July 1, 1989, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board: (1) When the bond of a credit union is terminated in its entirety; or (2) when bond coverage is terminated, by issuance of a written notice, on an employee, director, officer, supervisory or credit committee member. Said notification shall be sent to the Secretary of the Board or designee and shall include a brief statement of cause for termination.

[FR Doc. 88–24505 Filed 10–21–8; 8:45 am]

BILLING CODE 7535–01–M

12 CFR Part 701

Treasury Tax and Loan Accounts; Federal Credit Unions Acting as Depositaries and Financial Agents of the Government

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Proposed amendments.

SUMMARY: The NCUA Board, under its policy to review its regulations periodically, is proposing to revise §§ 701.37–1 ("Treasury Tax and Loan Accounts") and 701.37–2 (Federal Credit Unions Acting as Depositaries and Financial Agents of the Government"). The proposal is intended to clarify and simplify these regulations.

DATES: Comments must be received on or before January 23, 1989.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Timothy P. McCollum, Assistant General Counsel, or Julie Tamuleviz, Staff Attorney, Office of General Counsel, NCUA, at the above address, or telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Background

Sections 121 and 210 of the Federal Credit Union ("FCU") Act [12 U.S.C. 1767 and 1789a], authorize federally-insured credit unions to serve as depositaries and financial agents of the United States subject to regulation by the United States Treasury Department. In Parts 202, 203, and 214 of 31 CFR, the Treasury Department has set forth the current eligibility requirements for a financial institution to be designated as a depositary and financial agent, a Treasury tax and loan depositary, and a depositary for Federal taxes.

Section 202.2(b) of CFR Title 31 provides:

In order to be eligible for designation [as a depositary and financial agent of the U.S. Government], a financial institution [including a Federal credit union] is required to possess, under its charter and the regulations issued by its chartering authority, either general or specific authority to perform the services outlined in § 202.3(b). A financial institution is required also to possess the authority to pledge collateral to secure public funds.

Section 202.3(b)(1) of CFR Title 31 provides:

(1) Upon the request of a Government agency, the Secretary of the Treasury may authorize a depositary to perform other services specifically requested by the agency, including:

(i) The maintenance of official accounts in which balances will be in excess of the applicable Federal or State insurance coverage;

(ii) The maintenance of accounts in the name of the United States Treasury;

(iii) The acceptance of deposits for credit of the United States Treasury;

(iv) The furnishing of bank drafts in exchange for collections.

Section 203.3(b)(1)(ii) of CFR Title 31 states:

In order to meet Treasury requirements for designation [as a tax and loan depositary], each financial institution [including a Federal credit union] is required to possess under its charter and regulations issued by its chartering authority either general or specific authority permitting the maintenance of the tax and loan account as an account, the balance in which is payable on demand without previous notice of intended withdrawal. Each financial institution is required also to possess the authority to pledge collateral to secure Treasury tax and loan funds.

Section 214.3(b) of CFR Title 31 states:

Each financial institution designated as a Treasury tax and loan depositary under the provisions of Part 203 of this chapter is eligible for designation as a depositary for Federal taxes.

Sections 701.37–1 ("Treasury Tax and Loan Accounts") and 701.37–2 ("Federal Credit Unions Acting as Depositaries and Financial Agents of the Government") of NCUA's Rules and Regulations implement Sections 121 and 210 of the Federal Credit Union Act with respect to Federal credit unions. The regulations also provide FCU's with the authority to satisfy the eligibility requirements contained in 31 CFR Parts 202, 203 and 214.

The NCUA Board proposes to consolidate and simplify these regulations. The following section-by-section analysis describes the proposed changes to the regulations. The NCUA Board requests comment on the proposed changes and any other suggested modifications to the regulations.

Section-By-Section Analysis

Proposed Section 701.37(a)

This section sets forth the definitions of a Treasury Tax and Loan (TT&L) Remittance Account, a TT&L Note Account, a Treasury General Account, and a U.S. Treasury Time Deposit-Open Account. These definitions are currently contained in §§ 701.37–1(b)(1) and (b)(2) §§ 701.37–2(b)(2)(i) and (b)(2)(ii). The Board is proposing to amend the definition of U.S. Treasury Time Deposit-Open Account to clarify that this is a non-dividend paying account

and to reflect that Treasury may withdraw funds held in this account fourteen days after providing an FCU with notice of its intent to withdraw. The Board also proposes to amend the definition of TT&L Remittance Account to state that funds in this account are also not eligible for dividends. This information is currently contained in § 701.37–1(c).

Proposed Section 701.37(b)

This section implements the FCU authority to serve as a depositary of public money and as financial agent, depositary of Federal taxes, and a Treasury tax and loan depository. It further provides that in connection with these duties, an FCU may maintain the accounts defined in proposed § 701.37(a), pledge collateral to secure public funds, and perform the services listed in 31 CFR 202.3(b) and 203.3(b)(1)(ii).

This paragraph replaces current §§ 701.37–1 (a) and (f) and 701.37–2(a) and (b), which simply reiterate Treasury's regulations. FCU's engaging in activities under §§ 701.37–1 and 701.37–2 should, in any event, consult Treasury's regulations for a full explanation of their responsibilities.

Proposed Section 701–37(c)

This paragraph restates and clarifies the provisions found in §§ 701.37–1(e) and 701.37–2(c) regarding insurance coverage. The Board is proposing to delete the information contained in the current regulations regarding the payment of insurance premiums since this information is contained in § 741.8(d) of NCUA's Rules and Regulations.

Proposed Section 701.37(d)

This section incorporates and clarifies the provisions of §§ 701.37–1(c), 701.37–1(d), and 701.37–2(d) regarding Article III, Section 5(a) of the FCU Bylaws. The proposal provides that the TT&L Remittance Account, the TT&L Note Account, the Treasury General Account, and the U.S. Treasury Time Deposit-Open Account are not subject to the 60-day notice requirement for withdrawals that FCU boards may invoke under Article III, Section 5(a) of the Federal Credit Union Bylaws. The proposal would also clarify that the Treasury General Account is not subject to the bylaw either.

Proposed Deletions

The proposal would delete the provisions of §§ 701.37–1(d) and 701.37–2(d) stating that funds held in a TT&L Note Account or a U.S. Treasury Time Deposit-Open Account are not considered borrowings for purposes of Section 107(9) of the Federal Credit Union Act. This is implicit in proposed § 701.37(c) which would require these funds to be treated as "deposits of public funds."

The Board is also proposing to delete § 701.37–1(d).

Credit unions selecting the Note Option under 31 CFR Part 203.9 may hold funds in a TT&L Note Account in accordance with Department of Treasury Regulations. Funds held in the credit union's TT&L Note Account shall bear interest at the rate specified in the Department of Treasury Regulations.

Since proposed § 701.37(b) authorizes an FCU to maintain a TT&L Note Account subject to Treasury Department regulation, the Board believe it unnecessary to retain this information in the regulation.

Finally, the proposed amendments would eliminate § 701.37–2(e), which provides that the sum of the accounts held in the Treasury General Account and U.S. Treasury Time Deposit-Open Account shall not exceed 10 per centum of the total assets of the credit union. In 1983, the NCUA Board eliminated a similar restriction on the amounts that may be held in an FCU's tax and loan account, concluding that the amounts held in this account should be left to the discretion of an FCU's board of directors. 48 FR 55423 (December 13, 1983). The Board believes similar reasoning suggests lifting the restriction on the amounts that can be held by an FCU acting as a depositary of public money or a financial agent of the United States.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed amendments, if made final, would not have a significant impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The proposed amendments would not impose any paperwork requirements.

Executive Order 12612

The proposed amendments would not affect state regulation of credit unions. They would apply only to Federal credit unions.

List of Subjects in 12 CFR Part 701

Credit unions; Treasury tax and loan accounts; Depositaries of public money and fiscal agents.

By the National Credit Union Administration Board on October 13, 1988.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations as follows:

PART 701—[AMENDED]

1. That the authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. §§ 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. § 1981 and 42 U.S.C. §§ 3601–3610.

§§ 701.37–1 and 701.37–2 [Removed]

2. That §§ 701.37–1 and 701.37–2 be removed.

3. That new § 701.37 provide as follows:

§ 701.37 Treasury Tax and Loan Depositaries; Depositaries and Financial Agents of the Government.

(a) *Definitions.*

(1) "Treasury Tax and Loan ("TT&L") Remittance Account" means a non-dividend paying account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations under United States Treasury Department regulations.

(2) "TT&L Note Account" means an account subject to the right of immediate call, evidencing funds held by depositaries electing the note option under United States Treasury Department regulations.

(3) "Treasury General Account" means an account, established under United States Treasury Department regulations, in which a zero balance may be maintained and from which the entire balance may be withdrawn by the depositor immediately under all circumstances except closure of the credit union;

(4) "U.S. Treasury Time Deposit-Open Account" means a non-dividend bearing account, established under United States Treasury Department regulations, which generally may not be withdrawn until the expiration of 14 days after the date of the United States Treasury Department's written notice of intent to withdraw.

(b) Subject to regulation of the United States Treasury Department, a Federal credit union may serve as a Treasury tax and loan depositary, a depositary of Federal taxes, a depositary of public money, and a financial agent of the United States Government. In serving in

these capacities, a Federal credit union may maintain the accounts defined in Subsection (a), pledge collateral, and perform the services described under United States Treasury Department regulations for insititutions acting in these capacities.

(c) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and a U.S. Treasury Time Deposit-Open Account shall be considered deposits of public funds. Funds held in a TT&L Remittance Account and a TT&L Note Account shall be insured up to a maximum of $100,000 in the aggregate. Funds held in a Treasury General Account and a U.S. Treasury Time Deposit-Open Account shall be insured up to a maximum of $100,000 in the aggregate.

(d) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and a U.S. Treasury Time Deposit-Open Account are not subject to the 60-day notice requirement of Article III, section 5(a) of the Federal Credit Union Bylaws.

[FR Doc. 88-24504 Filed 10-21-88; 8:45 am]
BILLING CODE 7535-01-M

---

12 CFR Part 701

Loan Participation; Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Request for comments.

SUMMARY: The NCUA Board, as part of its ongoing program of regulatory review, is considering updating its credit union loan disposition and risk sharing policy, particularly §§ 701.22 [12 CFR 701.22] ("Loan Participation") and 701.23 [12 CFR 701.23] ("Purchase, Sale, and Pledge of Eligible Obligations") of its regulations. The Board requests suggestions on what changes are needed to give Federal credit unions ("FCU's") the flexibility needed to prosper under current market conditions. For example, NCUA is asking for comment on these matters:

1. Is the current working definition of "participation loan" in § 701.22(a)(1) satisfactory?

2. Should the term "credit union organization" in § 701.22(a)(4) be redefined as "an organization satisfying the requirements of § 701.27?"

3. Are the regulatory restrictions on loan participation and purchase, sale and pledge of eligible obligations: (a) unclear, (b) too complex? If so, how should they be changed?

4. Do the current differences in regulation between participation loans and purchase, sale and pledge of loans continue to make sense in today's economic environment?

5. Does NCUA's current regulatory structure on participation loans and purchase, sale, and pledge of eligible obligations: (a) Limit FCU ability to make good loans to members; (b) create unnecessary liquidity problems for some FCU's; (c) force too much of an FCU's assets into lower yielding investments?

6. What safety-and-soundness limits should be placed on an FCU's purchase of or risk-sharing in loans made by other credit unions?

7. Should different standards apply to natural person FCU's and to corporate FCU's?

The Board will consider all other suggestions to improve its current regulatory guidance in this area.

DATE: Comments must be received on or before January 23, 1989.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, National Credit Union Administration, 1776 G Stret NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Timothy P. McCollum, Assistant General Counsel, or Julie Tamuleviz, Staff Attorney, at the above address or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION

Statutory Background

FCU power to acquire, dispose of, or assign a portion of the risk on member loans primarily comes from three provisions in the FCU Act. Section 107(5)(E) of the Act [12 U.S.C. 1757(5)(E)] states:

> [An FCU shall have power] * * * to participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following: * * * (E) Participation loans with other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the board of directors. *Provided*, That a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least 10 per centum of the face amount of the loan.

Section 107(13) of the FCU Act [12 U.S.C. § 1757(13)] authorizes an FCU:

> in accordance with rules and regulations prescribed by the [NCUA] Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the [NCUA] Board) of its members . . . . but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.

Section 107(14) [12 U.S.C. § 1757(14)] gives an FCU power:

> to sell all or a part of its assets to another credit union, to purchase all or part of the assets of another credit union and to assume the liabilities of the selling credit union and those of its members subject to regulations of the [NCUA] Board.

This provision was adopted primarily "to provide additional latitude to a credit union suffering a bona fide liquidity crisis." 43 FR 51610 (Novemer 6, 1978).

Regulatory Interpretation of the Term "Participation."

When § 701.22 was first issued [43 FR 51610 (Novemer 6, 1978)], the NCUA Board discussed the term "participation":

> The term "participation" is not a precise term in commercial law and practice. It is used at different times to refer to arrangements made prior to or at the time of orgination, to refer to arrangements made subsequent to origination, and to refer to arrangements made without regard to the time of origination. In granting Federal credit unions the power to participate in making loans to members, Congress was using the term "participation" to mean arrangements made prior to or at the time of orgination and carried out within a reasonable time thereafter. Thus, 107(13) was adopted to allow Federal credit unions to sell certain loans subsequent to origination . . .

In 1981, the Board modified its view slightly [46 FR 31660 (June 17, 1981)]:

> The participation regulation applies where a third party funnels funds into the credit union with the intent of actually participating in making the loan, for example, where the participant will assist in preparing the loan documentation and the participant's funds will actually be disbursed at origination. The participation regulation does not apply when an organization merely arranges to purchase loans subsequently originated by the credit union.

The Board invites comments which may lead: To a more comprehensive and up-to-date definition of the term; to regulation which reflects not simply when the agreement was entered into but the risks assigned and undertaken, and to a regulation of participation loans which fits better into NCUA's general guidance on asset acquisition and disposition.

Regulatory Interpretation of the Term "Credit Union Organization"

Section 701.22(a)(4) defines "credit union organization" as:

> any organization as determined by the Board, established primarily to serve the daily operational needs of its member credit

unions. The term does not include trade associations, membership organizations principally composed of credit unions, or corporations or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operation of credit unions.

The Board requests comments on whether the term "credit union organization" should be redefined as "an organization satisfying the requirements of § 701.27 of NCUA's Rules and Regulations [12 CFR 701.27] regarding FCU investment in and loans to credit union service organizations." This is in accord with NCUA's interpretation of the term "credit union organization" contained in section 107(5)(D) of the FCU Act [12 U.S.C. 1757(5)(D)], which authorizes FCU loans to credit union organizations. Loans to credit union organizations pursuant to section 107(5)(D) of the FCU Act are subject to § 701.27 of NCUA's regulations. Such a change would also broaden FCU authority to engage in loan participations with credit union organizations by removing the prohibition against loan participations with credit union organizations whose principal function is to provide services to FCU members (e.g. consumer mortgage loan origination) rather than to provide services directly to FCU's.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the action being considered will not have a significant economic impact on a substantial number of small credit unions. The action being considered is directed at clarification and reduction of regulatory confusion and interpretive burdens, rather than creation of new regulatory restrictions. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The action being considered does not impose any paperwork requirements.

Executive Order 12612

The action being considered does not affect state regulation of state-chartered credit unions.

List of Subjects in 12 CFR Part 701

Loan participation; Participation; Eligible obligations; Purchase, sale and pledge of eligible obligations.

By the National Credit Union Administration Board on October 13, 1988.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 88-24502 Filed 10-21-88; 8:45 am]

BILLING CODE 7535-01-M

---

12 CFR Part 711

Management Official Interlocks

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Request for comments.

SUMMARY: Pursuant to NCUA's regulatory review program, public comment is requested concerning amendments to NCUA's Management Official Interlocks regulation. The intent of the review is to simplify and reduce the regulatory burden on Federal credit unions. The NCUA Board requests suggestions on what changes, if any, are needed to give credit unions greater management flexibility to meet present market conditions. Although the effect of this regulation on FCU's is already fairly limited, the Board requests comments, for example, on the following:

1. Can the regulation's definitions be amended to increase clarity and simplicity?

2. Should the permitted interlocking relationships be expanded to include situations not presently addressed? The Depository Institution Management Interlocks Act currently permits interlocks between credit unions. 12 CFR 711.4(a)(4): Moreover, the Board has by regulation exempted interlocks in the following situations (12 CFR § 711.4(b)(1)-(5): (a) Organizations in low income areas; (b) minority or women's organizations; (c) newly chartered organizations; (d) organizations faced with conditions endangering safety and soundness; (e) a credit union sponsored by another depository organization; and, (f) organizations facing a loss of management officials due to changes in circumstances.

(3) Should corporate FCU's be treated differently from natural person credit unions?

DATE: Comments must be received on or before January 23, 1989.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Roy DeLoach, NCUA, Office of General Counsel, 1776 G Street NW., Washington, DC 20456, telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Statutory Background

The Depository Institution Management Interlocks Act ("Interlocks Act") was enacted as title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. No. 95-630, 12 U.S.C. 3201 *et seq.*) The general purpose of the Interlocks Act and NCUA's Regulation issued thereunder (12 CFR Part 711) is to foster competition among depository institutions, depository holding companies, and their affiliates by limiting management official interlocks between unaffiliated organizations. Basically, the Interlocks Act prohibits financial institutional management interlocks within the same relevant metropolitan statistical area ("RMSA") or, in areas outside a RMSA, in the same community. The Interlocks Act also has a prohibition based on financial institution asset size regardless of geographic area. NCUA administers the Interlocks Act with respect to federally-insured credit unions.

The Interlocks Act was enacted by Congress when there was a perceived need to infuse more competition in the financial market. *see* [1978] U.S. Code Cong. & Ad. News, 9286. With automobile manufacturer financing and an emerging national market for home loans, competition in the financial markets is increasing greatly. Congress undoubtedly foresaw this possibility when it granted NCUA and the other Federal financial institution regulators some flexibility in the Interlock Act.

Flexibility Granted NCUA in the Interlocks Act

Section 209 of the Interlocks Act [12 U.S.C. 3207] provides:

> Rules and regulations to carry out this chapter, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 3202 or section 3203 if this title, may be prescribed by—
>
> * * * * *
>
> (5) The National Credit Union Administration with respect to credit unions the account of which are insured by the National Credit Union Administration.

The legislative history concerning this section provides that ([1978] U.S. Code Cong. & Ad. News, 9286):

> [r]ules and regulations, including rules and regulations to permit interlocks otherwise prohibited, may be prescribed by the five depository institution regulatory agencies for the institutions they regulate. Thus, the agencies will have authority to exempt

interlocks from the prohibitions of the title if the agency establishes that such an exemption has a pro-competitive effect.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that amendments resulting from this Request for Comments will not have a significant economic impact on a substantial number of small credit unions because any resulting changes are directed at clarification of present regulations rather than creation of new regulatory restrictions. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Any amendment resulting from this Request for Comments will not contain any paperwork requirements.

Executive Order 12612

Any amendment resulting from this Request for Comments will not affect state regulation of credit unions.

List of Subjects in 12 CFR Part 711

Credit Union, Management Official Interlocks Act.

By the National Credit Union Administration on October 13, 1988.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 88-24501 Filed 10-21-88; 8:45 am]

BILLING CODE 7535-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 257 and 258

Solid Waste Disposal; Report to Congress: Solid Waste Disposal in the United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Report to Congress on Solid Waste Disposal in the United States.

SUMMARY: The EPA is today announcing the availability of the Report to Congress on Solid Waste Disposal in the United States. EPA prepared this report in response to the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act. The report includes information on characteristics and management practices of Subtitle D (nonhazardous) wastes, characteristics of Subtitle D land disposal facilities, and Federal and State Subtitle D regulatory programs. Conclusions regarding the adequacy of the current Federal Subtitle D criteria (CFR Part 257) as well as recommendations for Federal, State, and local action are presented. This report to Congress is one of the support documents for the recently proposed criteria for municipal solid waste landfills (53 FR 33313, August 30, 1988) and therefore, has been added to the record supporting the proposed criteria.

ADDRESSES: This report is available for viewing at all EPA libraries and in the EPA RCRA docket room, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:30 am to 3:30 pm, Monday thru Friday, except legal holidays; telephone: (202) 475-9327. The public may copy a maximum of 50 pages of material from any regulatory docket at no cost. Additional copies cost 20 cents per page. The document may be purchased from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, at (703) 487-4600: "Report to Congress: Solid Waste Disposal in the United States", Volume I (EPA/530-SW-88-011, NTIS No: PB89-110381) and Volume II (EPA/530-SW-88-011B, NTIS No: PB89-110399).

FOR FURTHER INFORMATION CONTACT: For general information and/or a copy of the Executive Summary (EPA/530-SW-88-011A), call the RCRA Hotline at (800) 424-9346 or (202) 382-3000. For technical information on the report, contact Susan Mooney, Office of Solid Waste (OS-323), U.S. Environmental Protection Agency, 401 M Street SW, Washington DC 20460, (202) 382-5649.

SUPPLEMENTARY INFORMATION: In 1979, under authority of sections 1008(a)(3) and 4004(a) of Subtitle D of the Resource Conservation and Recovery Act (RCRA), EPA promulgated "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR Part 257). The Criteria include environmental performance standards for determining which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on human health or the environment. Facilities that violate the Criteria are considered "open dumps". The Criteria are enforced by States or through citizen suits.

In 1984, Congress passed the Hazardous and Solid Waste Amendments (HSWA), including provisions regarding the Subtitle D regulatory program. Sections 4010(a) and (b) of RCRA, which were added by HSWA, require EPA to conduct a study and submit a report to Congress addressing whether the current Criteria (40 CFR Part 257) are adequate to protect human health and the environment from ground-water contamination, and whether additional authorities are needed to enforce the Criteria. Further, section 4010(c) requires EPA to revise the Criteria for facilities that may receive hazardous household waste or small quantity generator hazardous waste. In response to these statutory mandates, EPA has recently proposed revised criteria for municipal solid waste landills (53 FR 33313, August 30, 1988) and is today issuing the Report to Congress on Solid Waste Disposal in the United States.

Some of the major research efforts undertaken for this report to Congress include a mail survey of municipal solid waste landfill owners and operators, a telephone survey of industrial facility owners and operators, and an analysis of risks posed by municipal solid waste landfills. Other major efforts, including a census of the State Subtitle D programs, an examination of municipal solid waste, household hazardous waste, and small quantity generator hazardous waste characteristics, and a review of Subtitle D facilities on the National Priorities List were previously summarized in the "Subtitle D Study Phase I Report" (EPA/530-86-054, NTIS No: PB-87-116-810) that was completed in October 1986. These data are also included in the report to Congress.

The report to Congress is organized in two volumes. Volume I contains the conclusions and recommendations of the report as well as the Executive Summary. Volume II contains all of the descriptive data on which the conclusions and recommendations are based. Within Volume II, Chapter 1 provides the statutory background for the report. Chapter 2 summarizes the data collection efforts conducted for the report. Chapter 3 presents information on those waste types defined as Subtitle D wastes under the Resource Conservation and Recovery Act. Chapter 4 includes the data collected on the four types of Subtitle D land disposal facilities (landfills, surface impoundments, land application units, and waste piles). Finally, Chapter 5 characterizes State Subtitle D regulatory programs.

Date: October 7, 1988.

Lee M. Thomas,

Administrator.

[FR Doc. 88-24507 Filed 10-21-88; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB Meeting.

SUMMARY: Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 a.m. to 12:00 noon, on Wednesday, November 2, 1988, in the Omar Bradley Conference Room, located on the 10th floor of the Veterans Administration Building, 810 Vermont Avenue, NW., Washington, DC 20420.

Items on the Agenda: Compliance and enforcement update; Air Carrier Access Act comments; public affairs plan; priorities for FY 1989 research and technical assistance; FY 1989 budget reprogramming; 1989 Board meeting schedule—dates and locations; FY 1988 annual report; and, an Environmental Sensitivities presentation.

DATE: Wednesday, November 2, 1988—10:00 a.m.–12:00 noon.

ADDRESS: Veterans Administration Building, 810 Vermont Avenue NW., Omar Bradley Conference Room, 10th floor, Washington, DC 20420.

The Technical Programs, Planning and Budget, and Executive Committees of the ATBCB will meet on Tuesday, November 1, 1988, from 9:30 a.m. to 5:00 p.m. at the ATBCB staff offices, Suite 501, located at 1111 18th Street, NW., Washington, DC 20036–3894.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs, (202) 653–7848 (voice or TDD), or Barbara A. Gilley, Administrative Officer, (202) 653–7834 (voice or TDD).

Thomas G. Deniston,
Acting Executive Director.

[FR Doc. 88–24601 Filed 10–21–88; 8:45 am]
BILLING CODE 6820–BP–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Southern States Community College RC&D Measure, Ohio

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Southern States Community College RC&D Measure, Highland County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical area treatment on the Southern States Community College campus involving two gullies and two acres of eroding open area. Planned works of improvement include the installation of 1,000 feet of grassed waterway, three grade stabilization structures, and two acres of critical area seeding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Exeuctive Order 12372 which requires intergovernmental consultation with state and local officials.)

Joseph C. Branco,
State Conservationist.
October 17, 1988.

[FR Doc. 88–24475 Filed 10–21–88; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 394]

Resolution and Order Approving the Application of the City of San Diego, CA, for a Foreign-Trade Zone in San Diego

Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Diego, California, filed with the Foreign-Trade Zones Board (the Board) on May 12, 1987, and amended on October 14, 1987, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at five sites in the Otay Mesa planning areas of San Diego, within the San Diego Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application,

subject to a 500-acre activation limit at the Brown Field site.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in San Diego, California

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of San Diego, California (the Grantee) has made application (filed May 12, 1987, FTZ Docket 5–87, 52 FR 20634, and amended on October 14, 1987, 52 FR 39673) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in San Diego, California, within the San Diego Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 153, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necesary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The grant does not include authority for manufacturing, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 14th day of October, 1988, pursuant to Order of the Board.

Foreign-Trade Zones Board.

C. William Verity,

Chairman and Executive Officer.

[FR Doc. 88–24513 Filed 10–21–88; 8:45 am]

BILLING CODE 3410-DS-M

International Trade Administration

Antidumping and Countervailing Duty Proceedings; Procedures for Review of Calculations and Correction of Ministerial Errors

ACTION: Notice of renewal of procedures for review of calculations and correction of ministerial errors.

SUMMARY: The Department of Commerce is renewing its current procedures for correcting clerical errors in final determinations in antidumping and countervailing duty investigations and in the final results of administrative reviews, after disclosure of all relevant information to parties to the proceeding that request disclosure.

DATE: This procedure will be effective October 24, 1988.

COMMENTS: Comments on these procedures should be submitted in writing as early as is practicable, but no later than 60 days from October 24, 1988.

ADDRESS: Address written comments (10 copies) to Jan W. Mares, Assistant Secretary, Import Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Jan W. Mares, Assistant Secretary, Import Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377–1780.

SUPPLEMENTARY INFORMATION: By notice published February 26, 1988, the Department announced temporary procedures for the review of calculations and correction of clerical errors in antidumping and countervailing duty proceedings (53 FR 5813). These procedures were given a six-month expiration date of August 26, 1988. The notice of these procedures stated that the Department would "at the end of the six month period * * * review the implementation of these procedures based on its experience and on comments received." (53 FR 5814).

The Department now renews these procedures with the following clarification. (See 53 FR 5813 for a complete description of procedures). Ministerial errors, as provided by section 1333 of the Omnibus Trade and Competitiveness Act of 1988 ("1988 Act"), Pub. L. No. 100–418, 102 Stat. 1107 (1988), mean errors in addition, subtraction, or other arithmetic functions, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Department considers ministerial. These procedures will remain in effect until regulations under the 1988 Act are promulgated. The public is invited to submit written comments on the procedures described in the above-referenced notice.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 88–24514 Filed 10–21–88; 8:45 am]

BILLING CODE 3510-DS-M

Office of Trade Adjustment Assistance; Petitions by Producing Firms for Determinations of Eligibility; Sanford Miller Corp et al.

Petitions have been accepted for filing on the dates indicated from the following firms: (1) Sanford Miller Corporation, 8 John Street, Lynbrooks, New York 11563, produces rectifiers and power supplies (April 1, 1988); (2) Schafer Brothers, Inc., 12300 Edison Way, Garden Grove, California 92641, producer of sofas and chairs (April 4, 1988); (3) Reppenhagen Roller Corporation, 817 Sycamore Street, Buffalo, New York 14212, producer of rollers for printing presses (April 5, 1988); (4) Webb Manufacturing Corporation, 74 Dickinson Street, Philadelphia, Pennsylvania 19147, produces canvas and nylon bags, painters hats, aprons and stuffed toys (April 5, 1988); (5) Gemini Corporation, 33 Morris Street, Springfield, Massachusetts 01105, produces children's playsuits and shirts (April 6, 1988); (6) Pride Cast Metals, Inc., 2737 Colerain Avenue, Cincinnati, Ohio 45225, producer of pump parts for liquids, hose fittings and other miscellaneous metal parts (April 6, 1988); (7) R.E. Dietz Company, P.O. Box 4833, Syracuse, New York 13221, produces automobile lighting equipment, rear and sideview mirrors and barricade safety lights (April 6, 1988); (8) Bastian Company, 1600 North Clinton Avenue, Rochester, New York 14621, produces jewelry pins, name tags, insignias and trophies (April 7, 1988); (9) Gateway Systems Corporation, 2801 Clark Avenue, St. Louis, Missouri 63103, produces electronic scales (April 7, 1988); (10) Gallmeyer & Livingston Company, 336 Straight Avenue SW., Grand Rapids, Michigan 49504, produces tool, cutter, flat surface reciprocating grinding machines and parts (April 8, 1988); (11) Moen Manufacturing Corporation, 1085 Grant, Fenton, Michigan 48430, produces automobile balance weights for wheel drums (April 18, 1988); (12) Popular Lighting Corporation, 115 MacQuesten Parkway, Mt. Vernon, New York 10550, produces lighting fixtures and lighting fixture kits for ceiling fans (April 18, 1988); (13) Alco Spring Industries, Inc., P.O. Box 188, Chicago Heights, Illinois 60411, produces hot wound springs (April 20, 1988); (14) LDG Capital Corporation, 2345 Pembrooke Avenue, Hoffman Estates, Illinois 60195, produces computerized patient monitoring, diagnostic analysis and reporting equipment (April 27, 1988); (15) Grizzly Boot Company, Inc., 229 East Commercial Street, Anaconda, Montana 59711, produces leather and rubber work boots (April 29, 1988); (16) Woodcutters Manufacturing, Inc., 3301 East Issacs, Walla Walla, Washington 99362, produces solid fuel burning stoves and inserts (April 29, 1988); (17) Calnap Tanning Company, P.O. Box 2190, Napa, California 94558, produces leather fabric (May 3, 1988); (18) Thunder Bay Manufacturing Corporation, 666 McKinely Avenue, Alpena, Michigan 49707, produces metal stamping dies for cutting and forming for automotive and machine tool industries (May 5, 1988); (19) Crumrine Manufacturing Jewelers, Inc., 145 Catron Drive, Reno, Nevada 89512, produces belt buckles (May 6, 1988); (20) Brilliant Glass, Inc., 6140 S. Eastern Avenue, Commerce, California 90040, produces ashtrays, mugs, glassware and stemware (May 6, 1988); (21) Deansgate, Inc., 950 Polyfarre Street, New Orleans, Louisiana 70130, producer of men's coats, jackets, and slacks (May 6, 1988); (22) Control Gaging, Inc., 5200 Venture Drive, Ann Arbor, Michigan 48108, produces gauges and parts (May 9, 1988); (23) Sterling Technologies, Inc., 3232 North Mingo Road, Tulsa, Oklahoma 74116, produces computer chassis (May 10, 1988); (24) Buerk Tool & Machine Corporation, 315 Grote Street, Buffalo, New York 14207, produces work and tool holders and other parts (May 10, 1988); (25) The Benstock Co., Inc., 86 West Chippewa Street, Buffalo, New York 14203, produces men's and women's rings of precious, semiprecious synthetic stones (May 11, 1988); (26) Almco Steel Products Corporation, 59 North Oak Street Extended, Bluffton, Indiana 46714, produces motor vehicle engine brackets, differential housing covers, brake shoes, brake rotor parts and other miscellaneous motor vehicle metal parts (May 13, 1988); (27) OMI International Building, 21439 Hoover Road, Warren, Michigan 48089, produces metal automotive parts (May 13, 1988); (28) Buxton's Meat Company, 37101 Southeast Dunn Road, Sandy, Oregon 97055, processes, cuts and wraps and sell fresh and cured pork and fresh sausage, beef and beef by-products (May 13, 1988); (29) Leisure Hobby Products, Inc., 22971 "B" Triton Way, Laguna Hills, California 92653, produces battery chargers, electric motors, airplane remote control kits and 3.2 battery amp packs (May 18, 1988); (30) Seymour Electronics and Automation, Inc., Remex Division, 1335 S. Acacia, P.O. Box 34034, Fullerton, California 92634, produces punched taping products (May 18, 1988); (31) Aquanetics, Inc., 111 Milbar Boulevard, Farmingdale, New York 11735, produces oil reclamation equipment (May 24, 1988); (32) Sundancer Indian Jewelry, Inc., 5921 Office Boulevard, NE., Albuquerque, New Mexico 87109, produces watches, necklaces, earrings and bracelets (May 24, 1988); (33) Santa Fe Natives, Inc., 3215 Central NE., Albuquerque, New Mexico 87106, produces women's skirts, pants, tops, dresses and jackets (May 24, 1988); (34) Bowen Machine Products, Inc., 42 Harrison Street, Bedford, Ohio 44146, produces parts for military tanks, components for non-armed land vehicles and turbine engine parts; (35) Davis-Lynch Glass Company, P.O. Box 4268, Star City, West Virginia 26505, produces glass shades and lamp parts (May 31, 1988); (36) American Prefinish Corporation, 11615 NE. 116th Street, Kirkland, Washington 98034, produces softwood moldings for door jambs, stops, casings and bases (June 1, 1988); (37) Orange County Arrow Precision Co., Inc., 1151 East Ash Avenue, Fullerton, California 92621, produces machine parts, gears, pistons, shafts and cylindars (June 1, 1988); (38) Tech-Mark, Inc., 15452 SE. For-Mor Court, Clackamas, Oregon 97015, produces food processing ovens (June 1, 1988); (39) Rosbro Sprotswear Co., Inc., 55 Washington Street, Brooklyn, New York 11201, produces women's and girls' coats and jackets (June 3, 1988); (40) Gandy Company, 528 Gandrud Road, Owatonna, Minnesota 55060, produces pneumatic applicator equipment for automatic metering of dry materials for farm crops (June 8, 1988); (41) Haskell of Pittsburgh, Inc., 231 Haskell Lane, Verona, Pennsylvania 15147, produces metal office desks and other metal office furniture (June 6, 1988); (42) Circuline Fabrics, Inc., 1085 Willoughby Avenue, Brooklyn, New York 11221, produces women's cotton sweaters and slacks and cotton shirts and men's cotton sweaters (June 7, 1988); (43) Russell Aives Mills, Ltd., 13 Lucon Drive, Deer Park, New York 11729, produces sweaters for men, women and boys (June 7, 1988); (44) Anchor Needle Corporation, 4468 Culver Road, Rochester, New York 14622, produces parts for textile machinery (June 7, 1988); (45) M.U. Industries, Inc., 110 North Fifth Street, Minneapolis, Minnesota 66503, produces men's caps and hats (June 7, 1988); (46) Reach Elecronics, Inc., P.O. Box 308, Lexington, Nebraska 68850–0308, produces paging equipment (June 7, 1988); (47) Bordeaux, Inc., 102 East Washington, Clarinda, Iowa 51632, produces women's and girl's jogging suits, sweat shirts and culottes (June 8, 1988); (48) Customs Optics, Inc., 495 West John Street, Hicksville, New York 11801, produces eyeglass lens (June 8, 1988); (49) Richard E. Meyer & Sons,

Inc., P.O. Box 307, Montgomery, New York 12549, produces leather (June 10, 1988); (50) Valleau, Inc., 3534 63rd Street, Saugatuck, Michigan 49453, produces metal figurines and metal parts (June 13, 1988); (51) Ricke Knitting Mills, Inc., 60–41 Flushing Avenue, Maspeth, New York 11378, produces men's and women's sweaters (June 13, 1988); (52) Leighton Machine Company, 60 Rogers Street, Manchester, New Hampshire 03103, produces cylinder and dials (June 13, 1988); (53) A&Z, Inc., 15043 Califa Street, Van Nuys, California 91411, produces wood furniture (June 13, 1988); (54) Aluminum and Zinc Die Cast Co., Inc. 1152 Expressway Drive South, Toledo, Ohio 43680, produces metal parts for automobile transmissions and doors (June 24, 1988); (55) Sewtech Engineering, Inc., 10770 Rockville Street B, Santee, California 92071, produces rooftop balloons and underwater parachutes for boat anchors (June 24, 1988); (56) IR&A Corporation, 7713 Haskell Avenue, Van Nuys, California 91406, produces precious metal jewelry (June 24, 1988); (57) King Concept Corporation, 5190 W. 76th Street, Minneapolis, Minnesota 55435, produces photographic film processing equipment (June 27, 1988); (58) Davis & Sanford Company, Inc., 24 Pleasant Street, New Rochelle, New York 10802, produces tripods (June 29, 1988); (59) LMS Metal Products Ltd., 6122 Hudson Avenue, West New York, New Jersey 07093, produces belt buckles and suspender hardware (June 29, 1988); (60) Marico Enterprises, Inc., 111 Demarest Mill Road, Nanuet, New York 10954, produces waterbed sheets, conforters and mattresses (June 30, 1988); (61) Diversified Control Systems, Inc., 645 Persons Street, East Aurora, New York 14052, produces process controls for ovens and kilns (July 1, 1988); (62) Prem Industries, Inc., 15 Ensiminger Road, Tonawanda, New York 14150, produces gears, gear boxes, camshafts, valves and value housings, and valve components (July 5, 1988); (63) Straus Knitting Mills, Inc., 350 Sibley Street, St. Paul, Minnesota 55101, knit trim for collars, cuffs and waist bands for outerwear and medical garment apparel (July 5, 1988); (64) ARF Products, Inc., Gardner Road, Raton, New Mexico 87740, produces radio communication and navigation eqipment (July 5, 1988); (65) Creations by Virgil, Inc., 536 Cherry Lane, Floral Park, New York 11001, produces jewelry (July 5, 1988); (66) CEC Industries Corporation, 350 West 300 South, Salt Lake City, Utah 84110, produces mineral processing equipment (July 7, 1988); (67) Stucki Embroidery Works, Inc., Route 28, Boiceville, New York 12412, produces embroidered trim and eyelet for garmets and embroidered uniforms (July 11, 1988); (68) Fulford Manufacturing Co., 65 Tripps Lane, East Providence, Rhode Island 02914, produces automotive parts and accessories, pewter miniatures and handbags parts (clasps, corness and trim) (July 11, 1988); (69) Buerk Tool & Machine Corporation, 315 Grote Street, Buffalo, New York 14207, produces metal hanger units, bushings, gear box housing, printing machine cylinders and bearings, chassis, jigs and fixtures (July 12, 1988); (70) Dynaflare Industries, Inc., cutting tools including bushings, horns dies, drills, and wheels (July 15, 1988); (71) Case Stationery Co., Inc., 179 Saw Mill River Road, Yonkers, New York 10701, produces writing paper, stationery envelops, plastic holders, clip boards, pencil sharpeners, spice racks, canisters sets, serving trays and plastic wicker baskets (July 15, 1988); (72) Trident Products, Inc., 2353 Industrial Parkway West, Hayward, California 94545, produces toilet bowel cleaners (July 18, 1988); (73) Temple-Stuart Company, Holman Street, Baldwinville, Massachusetts 01436, produces wood dining room furniture (July 18, 1988); (74) Dexta Corporation, 962 Kaiser Road, Napa, California 94558, produces surgical chairs, tables, stools, and elastic bands (July 18, 1988); (75) Al&R Knitting Mill Corp., 9 Wyckoff Avenue, Brooklyn, New York 11237, produces children's sweaters, skirts and pants (July 20, 1988); (76) Cadet Manufacturing Co., Inc., 2500 West Fourth Plain Boulevard, Vancouver, Washington 98660, produces zonal electric heaters, fan heaters and baseboard heaters (July 20, 1988); (77) Nytone, Inc., 2424 South 900 West, Salt Lake City, Utah 84119, produces photographic equipment and enuretic alarms (July 22, 1988); (78) Pennsylvania Crusher Corporation, P.O. Box 100, Broomall, Pennsylvania 19008, produces mineral and earth cleaning equipment (July 22, 1988); (79) RAG Tooling Company, P.O. Box 86, Salem, Ohio 44460, produces tool holders (fixtures for drilling, welding, bonding, etc.), multiple drill head machines, machine tools for cutting and trimming dies (July 25, 1988); (80) Tech-Mark, Inc., 15452 SE. For-Mor Court, Clackamas, Oregon 97015, produces food processing ovens (July 25, 1988); (81) Service Circuits, Inc., 607 Virginia Street SE., Albuquerque, New Mexico 87102, produces printed circuit boards, silk screening on electronic panels, and custom milling on thin metals (August 3, 1988); (82) Twoson E.S.P., Inc. 718 Massachusetts Avenue, Matthews, Indiana 46957, produces wire harnesses for the automotive and appliance industries (August 4, 1988); (83) Riteway Machine & Specialty Co., Inc., P.O. Box 948, Barnwell, South Carolina 29812, produces nuclear waste liners (August 5, 1988); (84) Graham Field Health Products, Inc., 400 Rabro Drive, Hauppauge, New York 11788, produces medical supplies (August 11, 1988); (85) Secon Metals Corporation, 7 Intervale Street, White Plains, New York 10606, produces metal wire (August 11, 1988); (86) Eagle Telephonics, Inc., 375 Oser Avenue, Hauppauge, New York 11788, produces telephone keyset system (August 11, 1988); (87) Louis Pokorny Co., Inc., 950 Johnson Avenue, Ronkonkoma, New York 11779, bed frames (August 11, 1988); (88) Shuron, Inc., P.O. Box 331, Rochester, New York 14601, produces single vision and bifocal glass lenses (August 15, 1988); (89) Combined Technologies, Inc., 1240 NE. 175th, Seattle, Washington 98155, produces electronic fish findings, marine engine test equipment, boats, and parts for trucks (August 16, 1988); (90) Marontate-Jones, Inc., 320 Terry Avenue North, Seattle, Washington 98109, produces women's coats and jackets (August 16, 1988); (Tensar Structures, Inc., 13550 Bloomingdale Road, Akron, New York 14001, produces air and tension strucures (August 16, 1988); (91) Quincy Candle Corporation, P.O. Box 4880, Syracuse, New York 13221, produces wax candles and tapers (August 17, 1988); (92) Arbeka Webbing Company, 1135 Roosevelt Avenue, Pawtucket. Rhode Island 02860, produces stretch bandages, webbing and knitted fabric for hospital use (August 17, 1988); (93) MAJ of Honolulu, Inc., 875 Waimanu Street-Suite 107, Honolulu, Hawaii 96813, produces ladies dresses (August 18, 1988); (94) Bright Light Electric Mfg. Co., Inc., 836 Logan Street, Brooklyn, New York 11208, produces Christmas tree lights and electric cords (August 19, 1988); (95) NETCO Automation, 77 Washington Street, Haverhill, Massachusetts 01832, produces automotive printed circuit board assembly equipment (August 19, 1988); (96) U.S. Tap, Inc., 800 West Clinton Street, Frankfort, Indiana 46041, produces brass sink and bath faucets and accessories, and toilet and plumbing fixtures (August 22, 1988); (97) Industrial Plastic, Inc., 680 South 28th Street, Washougal, Washington 98671, produces fish pens and other fabricated plastic products (August 25, 1988); (98) Woodcraft Industries, Inc., 6303 Rich Road SE., Olympia, Washington 98501, produces kitchen and bathroom cabinets (August 25, 1988); (99) Boulder Products, Inc. 310 Paterson Plank Road, Carlstadt, New Jersey 07072, produces vinyl film

and sheeting converter (August 25, 1988); (100) Layton Home Fashions, 1420 NW. Lovejoy Street, Portland, Oregon 97209, produces bedspreads, comforters and pillows (August 30, 1988); (101) Empire Manufacturing Co., P.O. Box 489, Winder, Georgia 30680, produces men's and women's slacks (August 31, 1988); (102) Superior Handle Finishers, Inc., P.O. Box 654, Abbeville, South Carolina 29620, produces round dowel handles (September 1, 1988); (103) Paris Manufacturing Corporation, P.O. Box 250, South Paris, Maine 04281, produces wooden sleds, wooden toboggans, plastic sleds, wooden portable cribs (September 6, 1988); (104) Dynaforce Corporation, 195 Sweet Hollow Road, Old Bethpage, New York 11804, produces strip doors (September 6, 1988); (105) U.S. Macaroni Manufacturing Co., Inc., East 601 Pacific Avenue, Spokane, Washington 99202, produces pasta and noodles (September 7, 1988); (106) Danwood Design Company, 21616 87th Avenue Southeast, Woodinville, Washington 98072, produces panels, desktops, case goods, and other office furniture (September 7, 1988); (107) I. Sommer Narrow Tape Corporation, 434 King Street, E. Stroudsburg, Pennsylvania 18301, produces woven narrow fabric textile tape and webbing of cotton or man-made fabric (September 8, 1988); (108) Minnesota Specialty Company, Inc., 119 North 4th Street, Minneapolis, Minnesota 55401, produces caps, visors, aprons and tote bags (September 8, 1988); (109) C-B Manufacturing Company, Inc., 155 West 2950 South, Salt Lake City, Utah 84115, produces toupees and wigs (September 9, 1988); (110) Continental Diversified Sales, Inc., 900 Sixth Avenue Southeast, Minneapolis, Minnesota 55414, produces backhoes, tractor loaders, for lifts and parts (September 9, 1988); (111) Gotham Plastics Company, Inc., 220 East 138th Street, Bronx, New York 20451, produces plastic mugs, trays, baskets, medical devices and picture frames (September 13, 1988); (112) R.V. Dow Enterprises, 466 Central Avenue, Rochester, New York 14605, produces pipe cleaners (September 13, 1988); (113) Kalglo Electronics Company, Inc., 6584 Ruch Road, Bethlehem, Pennsylvania 18017, produces voltage surge suppressors for computers and agricultural brooder heaters for fowl and swine , (September 16, 1988); (114) U.S. Carbide Company, Inc., 5633 Brecksville Road, Cleveland, Ohio 44131, produces machine tools, including punches, dies, reamers, counterbores, drills, abrasion test blades and other cutting tools (September 16, 1988); (115) Wind Rider, Inc., 15825 Stagg Street, Van Nuys, California 91406, produces jewelry (September 19, 1988); (116) Hawaiian Motor Company, 20710 S. Alameda, Long Beach, California 90810, produces motorized yard tools (September 19, 1988); (117) Ann Arbor Circuits, Inc., 424 West Washington Street, Ann Arbor, Michigan 48103, produces printed circuit boards (September 23, 1988); (118) Action Tool & Die Engineering, Inc., P.O. Box 301, Miamitown, Ohio 45041, produces metal-cutting extrusion and stamping dies, work holders, labeling machines, elevator and safe parts and other metal stamped parts including parts for hospital equipment and paper bag manufacturing machines (September 21, 1988); (119) Pyro Media, Inc., 7911 10th Avenue South, Seattle, Washington 98108, produces planters and pots (September 29, 1988).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618), as amended. Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involved petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

E.T. Baker,

Supervisory Eligibility Examiner, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 88–24509 Filed 10–21–88; 8:45 am]

BILLING CODE 3510-DR-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of Open Meeting, Frequency Management Advisory Council.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 4:00 p.m. on November 14, 1988, in Room 1605 at the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC (Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 15 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Conference Report for the ITU Conference on the Geostationary-Satellite Orbit and Planning for Space Services (ORB–88).

(2) NTIA Report—TELECOM 2000.

(3) NTIA Report—A new Measure of Spectrum Use.

(4) Policy Implications for Spectrum Use in the 1990's.

(5) Radio Frequency Radiation Exposure Issues.

The meeting will be open to public observations. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before November 10, 1988. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquires may be addressed to the Executive Secretary, FMAC, Mr. Michael W. Allen, National Telecommunications and Information Administration, Room 4099, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, telephone 202–377–1850.

Date: October 19, 1988.

Michael W. Allen,

Executive Secretary, FMAC, National Telecommunications and Information Administration.

[FR Doc. 88–24473 Filed 10–21–88; 8:45 am]

BILLING CODE 3510–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene public meetings of its advisory entities as follows:

Coastal Migratory Pelagic (Mackerel) Advisory Panel—On November 14, 1988, at 1 p.m., will convene at the Howard Johnson Plaza Hotel, 700 North Westshore Boulevard, Tampa, FL, to review Amendment #3, which would prohibit the use of purse seines and run-around gillnets on Atlantic king mackerel and prohibit drift gillnets on all coastal pelagics, review Amendment #4 which would reallocate Atlantic Spanish mackerel between commercial and recreational fishermen from a ratio of 76/24 to 50/50, and review the options paper for Amendment #5 which are various measures, most of which are allocative. The public meeting will recess at 5 p.m., reconvene on November 15 at 8 a.m., and will adjourn at 3 p.m. *Texas Habitat Advisory Panel*—On November 15, 1988, at 1 p.m., will convene at the Sheraton Crest, 111 East First Street, Austin, TX, to discuss the Clean Water Act (Section 404), North American Water Fowl Plan, Gulf Intracoastal Waterway, MARPOL Treaty, and hear updates on Plaza Del Rio, Galveston Bay Navigational Study, and the Mouth of the Colorado River Diversion. The public meeting will recess at 5 p.m., reconvene on November 16 at 8:30 a.m., and will adjourn at 3 p.m.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228–2815.

Date: October 18, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–24526 Filed 10–21–88; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council has scheduled two public meetings of its interim Halibut Select Group (HSG) and four halibut workshops to develop recommendations to the Pacific Council regarding non-Indian halibut allocation measures for the 1989 fishing season, as follows:

Oregon and California HSG Members—will convene October 18, 1988, at 1 p.m., at the Oregon Department of Fish and Wildlife Office, Newport, OR. *Washington HSG Members*—will convene October 20 at 7 p.m., in the Commissioners Meeting Room, Clallam County Courthouse, 4th and Lincoln, Port Angeles, WA.

Oregon Workshops—One workshop will convene October 31 at 7 p.m., at the La Sells Stewart Center, Agriculture Leader Room, 875 S.W. 26th, Corvallis, OR; a second workshop will convene on November 1, at 7 p.m., at the Marine Science Center Auditorium, Newport, OR. *Washington Workshops*—One workshop will convene October 25 at 7 p.m., at the Little Theater, Peninsula Community College, Port Angeles, WA; a second workshop will convene October 27 at 7 p.m., in the auditorium of State Office Building #2, 12th and Franklin, Olympia, WA.

For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Date: October 18, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–24527 Filed 10–21–88; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagics Plan Monitoring Team will convene a public meeting on October 31, 1988, at 9:30 a.m., at the Honolulu Laboratory, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI, to discuss the fishery management plan for pelagics in the Western Pacific region. The Team will review the annual report fo the Western Pacific pelagics fishery for 1987, discuss research, data and industry needs, the Saltonstall-Kennedy tuna longline project around Hawaii, and discuss any other Team business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Date: October 19, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–24528 Filed 10–21–88; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Request for Bilateral Textile Consultations With the Government of the People's Republic of China To Review Trade in Categories 330/630

October 19, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: October 26, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extened on July 31, 1986; Bilateral Textile Agreement of February 2, 1988.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the

Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION: On September 29, 1988, the Government of the United States requested consultations with the Government of the People's Republic of China regarding cotton and man-made fiber handkerchiefs in Categories 330/630, produced or manufactured in the People's Republic of China.

A summary market statement concerning these categories follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 330/630, under the agreement with the People's Republic of China, or to comment on domestic production or availability of products included in the categories, is invited to submit 10 copies of such comments or information to James H. Babb, Chariman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements consider appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States.

The United States remains committed to finding a solution concerning Categories 330/630. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement

Cotton and Man-Made Fiber Handkerchiefs; China; September 1988.

Summary and Conclusions

U.S. imports of cotton and man-made fiber handkerchiefs (Category 330/630) from China reached 4,083,834 dozen during the year ending July 1988, 29 percent above the 3,175,248 dozen imported a year earlier. Cotton and man-made fiber handkerchief imports from China were 3,375,124 dozen in 1987 and 2,333,003 dozen in 1986. During the first seven months of 1988, imports of cotton and man-made fiber handkerchiefs (Category 330/630) from China reached 2,779,031 dozen, 34 percent above the 2,070,321 dozen imported during the same period of 1987.

China is the major supplier of cotton and man-made fiber handkerchiefs accounting for 72 percent of total imports in the first seven months of 1988. During the January–July 1987 period China accounted for 61 percent of total imports.

The sharp and substantial increase in imports of handerchiefs (Category 330/630) remained relatively flat, fluctuating within a very narrow range declining in one year and increasing in the next. U.S. production in 1987 was flat, remaining at the 1986 level, but was two percent below the 1984 level. The share of this market held by domestic manufacturers fell from 70 percent in 1984 to 64 percent in 1987.

U.S. Imports and Import Penetration

U.S. imports of cotton and man-made fiber handkerchiefs (Category 330/360) grew 34 percent between 1984 and 1987, increasing from 4,024 thousand dozen in 1984 to 5,377 thousand dozen in 1987. During the first seven months of 1988, imports of cotton and man-made fiber handkerchiefs (Category 330/630) reached 3,705 thousand dozen, 9 percent above the level imported during the same period of 1987. The ratio of imports to domestic production increased 15 percentage points, rising from 42 percent in 1984 to 57 percent in 1987.

Duty-Paid Value and U.S. Producers' Price

The majority of China's cotton and man-made fiber handkerchiefs imports during the first seven months of 1988 entered under the following TSUSA numbers: 370.4800—cotton hemmed handkerchiefs, not fancy or figured, not colored, not over 50's average yarn number, and not ornamented; 370.6040—cotton hemmed handkerchiefs, fancy or figured, not colored, not over 50's average yarn number, and not ornamented; 370.6020—cotton hemmed handkerchiefs, fancy or figured, colored, not over 50's average yarn number, and not ornamented; and 370.8820—man-made fiber hemmed handkerchiefs, not ornamented. These handkerchiefs entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable handkerchiefs.

Committee for the Implementation of Textile Agreements

October 19, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 2, 1988, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 26, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 330/630, produced or manufactured in China and exported during the period which began on September 29, 1988 and extends through December 31, 1988, in excess of 1,200,850 dozen.

Categories 330/630 shall remain subject to the Group II limit established in the directive of December 30, 1987.

Textile products in Categories 330/630 which have been exported to the United States prior to September 29, 1988 shall not be subject to the limits established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–24465 Filed 10–21–88; 8:45 am]

BILLING CODE 7510–10–DR

DEPARTMENT OF DEFENSE

Defense Acquisition Regulatory Council; Meetings

AGENCY: Department of Defense (DoD) National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meetings.

SUMMARY: The Defense Acquisition Regulatory (DAR) Council will travel to Cherry Hill, New Jersey, and Orlando, Florida, during the week of October 31, 1988. The Council will conduct joint Government/Industry meetings at both locations and will discuss acquisition topics of mutual interest. The Council tentatively plans presentations on the following topics: Small disadvantaged Business; Finance/Pricing; Technical Data Rights; Bid Protests; and Commercial Products and Practices. The Council will be available for questions on these and any other DAR cases or issues.

DATES: November 1, 1988 and November 3, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary DAR Council (202) 697–7266.

SUPPLEMENTARY INFORMATION: The Defense Contract Administration Services Region, Philadelphia will host the DAR Council's meeting on Tuesday, November 1st, from 7:00 am to 4:30 pm, at the cherry Hill Inn in Cherry Hill, New Jersey ((690) 662–7200). The contact point is Mary Schiavo, (215) 952–3548, (AV 444–3548). Registration is $25. Telephonic registration deadline is October 26, 1988.

The Defense Contract Administration Services Region, Atlanta will host the DAR Council's meeting on Thursday, November 3, from 8:00 am until 4:30 pm., at the the Orange County Convention Center in Orlando, Florida. The point of contact is Ms. Karen Drake (404) 429–6150, ((AV 697–6150)). Registration fee is $25. Telephonic registration deadline is October 26, 1988.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 88–24645 Filed 10–21–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 9 and 10 November 1988.

Time: 0800–1700 hours each day.

Place: U.S. Naval Safety Center, Norfolk, VA, November 9, 1988, HQ TRADOC, Hampton, VA, November 10, 1988.

Agenda: The Army Science Board Ad Hoc Subgroup on Human Dimensions in Army Safety will conduct its second meeting at two sites; namely, U.S. Naval Safety Center, Norfolk, VA (NAVSAFCEN) and HQ TRADOC, Hampton, VA. Briefings will be conducted by various members of the NAVSAFCEN staff as well as HQ TRADOC. Past, current and planned actions will be discussed in accordance with the Terms of Reference. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–24523 Filed 10–21–88; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA NO: 84.047]

Upward Bound Program

ACTION: Notice to extend the deadline for receipt of applications.

SUMMARY: On September 30, 1988 the Secretary of Education published in the Federal Register (53 FR 38321) a notice inviting applications for new awards for the Upward Bound Program. This document extends the date for receipt of applications from November 18, 1988 until December 2, 1988. The Secretary takes this action to allow the public additional time to prepare the applications.

For applications or information contact: Mrs. Goldia Hodgdon, Chief, Education Outreach Branch, Division of Student Services, U.S. Derpartment of Education (Room 3060, ROB–3), 400 Maryland Avenue SW., Washington, DC 20202–5331. Telephone: (202) 732–48

Program Authority: 20 U.S.C. 1070d, 1070d–1a.

Dated: October 18, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88–24516 Filed 10–21–88; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

Intent To Repay to the California State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay to the California State Department of Education, the State educational agency (SEA), an amoung equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination. This notice describes the SEA's plan, submitted on behalf of Richmond Unified School District, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATE: All written comments must be received on or before November 23, 1988.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 2043), Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 732–4692.

SUPPLEMENTARY INFORMATION:

A. Background

In July 1986, the Department recovered $12,150 from the California SEA for claims arising from an audit of the Richmond Unified School District covering the period July 1, 1980 through June 30, 1982. The claims involved the SEA's administration of Title I of the Elementary and Secondary Education Act of 1965 (Title I), a program that addressed the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families. Specifically, the LEA charged to its Title I project costs for training and conference expenses that were not properly related to the Title I program. This was in violation of § 116.36 of 45 CFR Part 116 and Appendix B, Part II.B.19. and Part I.C.1.a. of 45 CFR Part 100, which required that training costs

must be directly related to Title I services provided during the year and necessary to meet the needs of participating students.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $9,112 and has submitted a plan on behalf of the LEA for use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981. 20 U.S.C. 3801 *et seq*. The final audit determination against the SEA resulted from improper expenditures of Title I funds. However, since Chapter 1 superseded Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, that is designed to serve educationally deprived children in low-income areas.

The SEA's plan proposes that the LEA will use the grantback funds to augment the Chapter 1 reading, mathematics, and communications programs funded from the regular Chapter 1 entitlement for school year 1988–89. Under the SEA's plan, extra assistance would be provided by the LEA for approximately 30 eligible Chapter 1 children at a cost of $9,112. With the grantback funds, the LEA will hire two teacher aides, who will work two hours a day at an elementary school with individuals and small groups of Chapter 1 project participants. The aides will provide follow-up assistance in reading vocabulary and comprehension, basic mathematics facts, and oral and written communication skills. The assistance provided by the aides will focus on the development of basic skills and concepts necessary to increase the Chapter 1 students' effective participation and achievement levels in the core curriculum.

The regular Chapter 1 program provides for resource teacher support and supplementary materials in basic skills. However, the needs assessment indicates that more consistent follow through support is needed for these project participants to reach grade level status. The day-to-day reinforcement activities offered by these aides will provide additional individual and small group assistance, with the current Chapter 1 program does not afford.

Equitable services will be provided to eligible nonpublic school students.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon the review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the California SEA under a grantback arrangement. The grantback award would be in the amount of $9,112, which is 75 percent—the maximum percentage authorized by the statute—of the funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payment under a grantbank arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1989, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA, on behalf of the LEA, will, not later than January 1, 1990, submit a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Dated: October 18, 1988.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

[FR Doc. 88–24515 Filed 10–21–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP88–895–000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

October 7, 1988.

Take notice that on September 30, 1988, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP88–895–000 a request pursuant to

§ 157.205(b) and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) to abandon by sale to Peoples Natural Gas Company (Peoples) approximately 6.08 miles of 4-inch sales lateral pipeline located in El Paso County, Colorado, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that pusuant to a Sale Agreement dated July 27, 1988, CIG has agreed to sell and Peoples has agreed to purchase the subject pipeline facilities. CIG states that the subject facilities were constructed and operated pursuant to the certificate authorization issued in Docket No. CP70–113. CIG notes that the proposed abandonment involves only the sale of facilities and that no service obligation to Peoples is either reduced or terminated as a result of the proposed abandonment.

CIG states that under the July 27, 1988, agreement, it will sell the facilities to Peoples, for Peoples' use in delivering gas purchased from CIG for resale to the towns of Monument and Palmer Lake, located in El Paso County, Colorado. According to CIG, the facilities are located in Section 28, 29, and 30, T11S–R65W, and Section 21, 25, 26, and 27, T11S–R66W, El Paso County, Colorado.

CIG states that it holds a blanket certificate in Docket No. CP83–21–000 authorizing it to perform activities under Subpart F of Part 157 of the Commission's Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24518 Filed 10–21–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–154–004]

Northwest Pipeline Corp.; Compliance Filing

October 19, 1988.

Take notice that on October 11, 1988, Northwest Pipeline Corporation (Northwest) filed Substitute Ninth Revised Sheet No. 125 to its FERC Gas Tariff, First Revised Volume No. 125, to be effective June 1, 1988.

Northwest states that this tariff sheet reflects the addition of the word "scheduled" between "previous" and "purchased" in § 16.6(b).

Northwest states that a copy of this filing has been mailed to all of its jurisdictional sales customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 26, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24519 Filed 10–21–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88–227–003 and CP87–309–005]

Paiute Pipeline Co.; Filing

October 19, 1988.

Take notice that on October 12, 1988, Paiute Pipeline Company (Paiute) filed Second Substitute Original Sheet No. 27 to its FERC Gas Tariff, Original Volume No. 1–A.

Paiute states that this filing reflects correction of the administrative errors and requests that the tendered tariff sheet be accepted in substitution for its counterpart contained in its filing of September 30, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) (1988)). All such motions or protests should be filed on or before October 26, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24520 Filed 10–21–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT89–1–001]

Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

October 19, 1988.

Take notice that on October 17, 1988, Williston Basin Interstate Pipeline Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1–B:

Substitute First Revised Sheet No. 169
Original Sheet No. 169A
Substitute First Revised Sheet No. 170
Substitute First Revised Sheet No. 172
Substitute First Revised Sheet No. 173
Substitute First Revised Sheet No. 174
Substitute First Revised Sheet No. 176
Substitute First Revised Sheet No. 177
Substitute First Revised Sheet No. 178
Substitute First Revised Sheet No. 179
Substitute First Revised Sheet No. 180
Substitute First Revised Sheet No. 181
Substitute First Revised Sheet No. 182
Substitute First Revised Sheet No. 183
Substitute First Revised Sheet No. 184

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by October 27, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-24521 Filed 10-21-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200162.

Title: North Carolina State Ports Authority Terminal Agreement.

Parties:

North Carolina State Ports Authority
Solar International Shipping Agency, Inc., Agent for Yangming Marine Transport Corporation (Yangming)

Synopsis: The agreement provides Yangming volume incentive rates for wharfage for an annual volume over 50,000 tons of cargo. The agreement provides for dockage and crane rental at tarrif rates provided that those rates will not increase more than 4% during any contract year. The agreement also provides Yangming special container handling rates. The agreement is for one year with an option to renew for an additional year.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: October 19, 1988.

[FR Doc. 88-24511 Filed 10-21-88; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Service's claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the Federal Register.

The Secretary of the Treasury has certified a rate of 14.75% for the quarter ended September 30, 1988. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: October 13, 1988

Dennis J. Fischer,

Deputy Assistant Secretary, Finance.

[FR Doc. 88-24474 Filed 10-21-88; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

National Institute for Occupational Safety and Health; Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Mine Health Research Advisory Committee (MHRAC).

Date: November 3-4, 1988.

Place: Auditorium B, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time and Type of Meeting: Open 8:45 a.m.-10:30 a.m., November 3. Closed 10:30 a.m.-12:30 p.m., November 3. Open 1:30 p.m.-4:30 p.m., November 3. Open 9:00 a.m.-12 noon, November 4.

Contact Person: Melvin L. Myers, Executive Secretary, MHRAC, NIOSH, CDC, BLDG. 1, Room 3120, D-37, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone: Commercial: (404) 639-3901, FTS: 236-3901.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.

Agenda: Agenda items for the meeting will include announcements; consideration of minutes of the previous meeting and future meeting dates; an orientation for new members; discussion of the recent International Pneumoconioses Conference; and a review of the NIOSH surveillance program. From 10:30 a.m. until 12:30 p.m., November 3, the Comnmittee will discuss certain matters covered by the Government in the Sunshine Act, sections 552b(c)(6) and/or 552b(c)(9)(B) of title 5 U.S. Code. Therefore, pursuant to said provisions and the determination of the Director, Centers for Disease Control, this portion of the meeting will not be open to the public.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered by a scheduled speaker during the meeting should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained form the contact person listed above.

Due to difficulties in scheduling, the agenda could not be finalized in time to meet the 15-day publication requirement.

Dated: October 19, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Cantral.

[FR Doc. 88-24569 Filed 10.-21-88; 8:45 am]

BILLING CODE 4160-19-M

Family Support Administration

Statement of Organization, Functions and Delegations of Authority

Part M, Family Support Administration, Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (51 FR 1164, April 4, 1986 as amended most recently at 51 FR 35958, September 24, 1987) is amended to reflect organization and function changes to Chapter ML, Office of Community Services. Specifically, to: (1) remove The Federal Task Force on the Homeless and (2) consolidate the audit functions of the Community Services Program and the Low-Income Home Energy Assistance Program (LIHEAP).

The changes are as follows:

1. Amend Chapter ML, Section ML.00 Mission to delete the last sentence.

2. Amend Chapter ML, Section ML.10 Organization to: (1) delete line 3 "The Federal Task Force on the Homeless (ML1)" and line 12 "Division of Audit Resolution (MLB4)" and (2) insert after Division of Energy Program Operations (MLC2) "Office of Audit Resolution (MLE)."

3. Amend Chapter ML, Section ML.20 Functions to delete paragraph C. "The Federal Task Force on the Homeless" in its entirety.

4. Amend Chapter ML, Section ML.20 Functions to delete paragraph D.4 "Division of Audit Resolution" in its entirety.

5. Amend Chapter ML, Section ML.20 Functions to delete paragraph E.2 and replace with the following:

2. The Division of Energy Program Operations provides leadership in interpretation and application of federal program policy as it relates to compliance activities in the LIHEAP program. The Division reviews grantee applications and amendments; provides the Office of Financial Management, FSA, with grantee information necessary to issue grants; and investigates complaints. The Division provides assistance to states, tribes and territories in developing energy program policies and operational procedures; evaluates compliance of state and tribal policies and operations with statutory and regulatory requirements; and provides support in developing and implementing program improvements. The Division also assists states and other public and private organizations by providing training and technical assistance in areas related to home energy.

6. Amend Chapter ML, Section ML.20 to add the following:

F. The Office of Audit Resolution is responsible for administering the entire Audit responsibilities under Pub. L. 98–502, the Single Audit Act and meeting the requirements of OMB Circular A–128. These audit responsibilities pertaining to block grant audits and discretionary grant audits in both the Community Services Programs and the Low-Income Home Energy Assistance Programs (LIHEAP).

This Office is responsible for the review and resolution of audit issues or questioned costs with recipients of OCS transition, discretionary and Community Services and LIHEAP block grant funds in accordance with the appropriate audit policy as established by HHS.

This Office is also responsible for the monitoring of agreements relating to the expenditures of carry-over Community Services Administration (CSA) funds; the disposition of assets of former CSA grantees, and for addressing any remaining issues arising from the responsibilities of the former CSA and for performing all claims (debts) collection activities.

The Office consists of two Audit Resolution Teams, one for Discretionary Grants, and one for the Community Services and LIHEAP block grants.

Wayne A. Stanton,

Administrator, Family Support Administration.

Date: October 14, 1988.

[FR Doc. 88–24512 Filed 10–21–88; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 86V–0517]

Approved Variance for a Laser Product; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for laser products has been approved by FDA's Center for Devices and Radiological Health (CDRH) for the Clinac radiation therapy linear accelerator systems and Ximatron radiation therapy simulator systems which incorporte an optional backpointer laser. These systems are manufactured by Varian, Palo Alto, CA.

DATES: The variance became effective on April 8, 1988, and ends on April 8, 1993.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted Varian, 611 Hansen Way, Palo Alto, CA 94303, a variance from the performance standard for laser products (21 CFR 1040.10 and 1040.11) for the Varian Clinac radiation therapy linear accelerator systems and Ximatron radiation therapy simulator systems. Specifically, the requirement of the laser products standard for which the variance was granted is 21 CFR 1040.10(f)(5)(iii), that a laser system incorporate an emission indicator at the laser control if the laser and its operation control are housed separately and can be operated at a separation distance greater than 2 meters.

Under the terms of the variance, (1) the laser radiation emitted in the backpointer beam must not exceed Class II levels; (2) the instructions for operation under 21 CFR 1040.10(h)(1) must include a description of appropriate eye protection for use by the patient during those procedures that would result in the eyes of the patient being exposed to laser radiation; and (3) an additional indication of emission must be provided by either (a) connecting the laser to the system so that it comes on when the field defining light is turned on, or by (b) connecting the laser so that it is activated by a change in the setting of the room light control. The choice of form of the additional indicator will be made by the purchaser. If the purchaser declines both forms of additional indication, the control on the pendant for the laser will be disabled.

FDA has determined that: (1) The laser products utilize alternate means for providing radiation safety or protection equal to that provided by products of similar design meeting all of the requirements of the standard; and (2) although it is possible to direct the backpointer laser light toward the face of the patient on the treatment couch, that would rarely happen. Further, the laser output system is a fan beam at Class II levels.

Therefore, on April 8, 1988, the requested variance was approved by a

letter to the manufacturer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer, the product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number appearing in the heading of this notice, and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: October 14, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–24493 Filed 10–21–88; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. November 3 and 4, 1988, 9 a.m., National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 3, 1988, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5:30 p.m.; open committee discussion, November 4, 1988, 9 a.m. to 5:30 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockvile, MD 20857, 301–443–4730 or 419–259–6211.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of cardiovascular disorders and diseases and makes recommendations regarding the appropriate clinical development of such products.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 26, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss Cardizem (diltiazem), Marion Laboratories, new drug application (NDA) 18–602; NDA 19–471, for hypertension; Cardene (nicardipine), Syntex, NDA 19–488, for hypertension; Lopressor (metoprolol), Ciba-Geigy, NDA 17–963, for arrhythmia; Decabid (indecainide), Eli Lilly and Co., NDA 19–693, for arrhythmias.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. November 17 and 18, 1988, 8:30 a.m., Conference Rm. 10, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 17, 1988, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; open committee discussion, November 18, 1988, 8:30 a.m. to 2:30 p.m.; Isaac F., Roubein, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergenic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 3, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addressees of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 17, 1988, the committee will discuss the guidelines for the evaluation of bronchodilator drugs. On November 18, 1988, the committee will discuss NDA 19–475 (Pentigetide, Immunotech Pharmaceuticals).

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. November 21, 1988, 8:30 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; David F. Hersey, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 7, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) NDA 19–829, Ceretec (technetium, Tc 99m HMPAO), Amersham Corp., for use in cerebral imaging; (2) safety considerations related to the use of nonionic contrast media; (3) a pending gastric emptying petition; (4) an update of progress in the development of the agency's regulatory position for Positron Emission

Tomography (PET); and (5) brief reports by groups in and outside the Food and Drug Administration, which are of interest to the committee.

Hematology and Pathology Devices Panel

Date, time, and place. November 21 and 22, 1988, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, November 21, 1988, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; open public hearing, November 22, 1988, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joseph L. Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 1, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for: (1) The detection of the Philadelphia translocations present in leukemia cells of patients with chronic myelogenous leukemia; (2) the T and B lymphocyte gene rearrangement utilizing deoxyribonucleic acid (DNA) probes; and (3) the soluble Interleukin-2 receptor as a measurement of tumor burden in patients with hairy cell leukemia.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions of the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participations does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are avaialble from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20557, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Fredom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 19, 1988.

John M. Taylor,

Associate Commissioner for Regulotory Affoirs.

[FR Doc. 88–24619 Filed 10–20–88; 3:23 pm]

BILLING CODE 4160–01–M

Public Health Service

National Toxicology Program, Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting on November 17 and 18, 1988, of the National Toxicology Program (NTP) Board of Scientific Counselors, Reproductive and Developmental Toxicology Program Review Subcommittee. The meeting will be held at the Omni Netherlands Plaza Hotel, 35 West 5th Street, Cincinnati, Ohio, on November 17, and at NIOSH, 4676 Columbia Parkway, Cincinnati, on November 18.

The meeting is from 1:00—6:00 p.m. on November 17 and 8:30 a.m.—noon on November 18, and will be open to the public. The primary agenda topics are reviews of the research efforts of the staffs at the National Institute of Environmental Health Sciences (NIEHS) and National Institute of Occupational Safety and Health (NIOSH).

The Executive Secretary, Dr. Larry Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, Telephone (919) 541–3971, FTS 629–3971, will furnsih the final agenda.

Dated: October 17, 1988.

David P. Rall,

Director, Notionol Toxicology Program.

[FR Doc. 88–24460 Filed 10–21–88; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program, Board of Scientific Counselors' Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus,

National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, North Carolina on November 14 and 15, 1988.

The meeting will be open to the public from 8:30 a.m. until adjournment on November 14. The preliminary agenda with *approximate* times are as follows:

Review of Cellular and Genetic Toxicology Branch (CGTB), Division of Toxicology Research and Testing, NIEHS

8:30 a.m.–9:00 a.m.—Introduction

9:00 a.m.–12:15 p.m.—Current CGTB Programmatic Activities

Activities

1:00 p.m.–3:15 p.m.—Initiatives on Non-Mutagenic Carcinogens

3:30 p.m.–4:15 p.m.—Germ Cell Mutation Projects including Concepts Review

4:15 p.m.–Adjournment—Intramural Research Projects

The meeting on November 15 will be open to the public from 8:30 a.m. to 12:00 noon. The preliminary agenda with *approximate* times are as follows:

8:30 a.m.–8:45 a.m.—Report of the Director, NTP

8:45 a.m.–9:00 a.m.—Update on Activities of the Technical Reports Review Subcommittee

9:00 a.m.–9:30 a.m.—Status of NIEHS Oncogene Studies

9:30 a.m.–10:30 a.m.—CGTB Poster Session

10:30 a.m.–12:00 noon—Review of Chemicals Nominated for NTP Studies.

Thirteen chemicals will be reviewed. Seven of the chemicals wrere evaluated by the NTP Chemical Evaluation Committee (CEC) on May 10, 1988, and are (with CAS Nos. in parenthesis): (1) b-Cadinene (523–47–7); (2) Diphenylamine (122–39–4); (3) Firemaster 680 (37853–59–1); (4) Isobutene (115–11–7); (5) Methacrylonitrile (126–98–7); (6) Phenylpropanelamine Hydrochloride (154–41–6); (7) Trichloromelamine (7673–09–8, 12379–38–3). Six of the chemicals were evaluated by the CEC on July 27, 1988, and are: (1) Acrolein (107–02–8); (2) Acrylic Acid (79–10–7); (3) Aldicarb Oxime (1646–75–9); (4) Butanal Oxime (110–69–0); (5) Cyclohexanone Oxime (100–64–1); and (6) 1,1,2,2-Tetrabromoethane (79–27–6).

In accordance with the provisions set forth in section 552b(c)(6) Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 14 from 7:45 a.m. to 8:30 a.m. and November 15 from 12 noon to 3:00 p.m. for further evaluation of research activities in the NIEHS Cellular and Genetic Toxicology Branch, incuding the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971; FTS 629–3971, will have available a roster of Board members and expert consultants and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: October 5, 1988.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 88–24461 Filed 10–21–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–88–1876; FR–2551]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final notice.

SUMMARY: Title 24, Part 115 of the Code of Federal Regulations describes the procedure for recognizing State and local fair housing laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19. This notice: A. Announces the Department's decision to recognize two additional jurisdictions in accordance with § 115.6(c); and B. Announces the entry into an agreement for interim referrals with six jurisdictions in accordance with § 115.11.

EFFECTIVE DATE: October 24, 1988.

FOR FURTHER INFORMATION CONTACT: Wagner D. Jackson, Acting Director for Fair Housing Enforcement and Section 3 Compliance, Department of Housing and Urban Development, Room 5206, 451 Seventh Street, SW., Washington, DC 20410; telephone, (202) 755–6836. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: A. On March 3, 1988 (53 FR 6964), the Department published a notice seeking public comment on the Department's determination that the fair housing law of Hammond, IN and Cambridge, MA each, "on its face", provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. Comment was also invited on the present and past performance of the agencies administering and enforcing the laws of those localities. No public comments were received concerning the recognition of these jurisdictions.

This publication gives notice of the recognition of Hammond, IN and Cambridge, MA, in accordance with § 115.6(c).

B. The Assistant Secretary has determined, after application of the criteria set forth in § 115.3, that the fair housing laws for the State of Georgia; the State of Ohio; Albany, New York; Durham, North Carolina; Greensboro, North Carolina; and Lee County, Florida, on their face, provide rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in Title VIII of the Civil Rights Act of 1968. However, the statutes and ordinances of these jurisdictions have not been in effect for a sufficient time to permit the enforcement agencies to demonstrate that they meet the performance standards described in § 115.4.

This publication gives notice of HUD's entry into an agreement for interim referrals with the State of Georgia; the State of Ohio; Albany, New York; Durham, North Carolina; Greensboro, North Carolina; and Lee County, Florida, in accordance with § 115.11.

The Fair Housing Amendments Act of 1988 (Pub. L. 100–430) (1988 Act), enacted on September 13, 1988, amended Title VIII of the Civil Rights Act of 1968. The 1988 Act provides that agencies certified as having substantially equivalent fair housing laws or agencies certified for interim referrals before the date of enactment may continue to receive referrals after that date. The agencies to which this Notice refers were certified before September 13, 1988. Hammond, IN was certified on September 12, 1988, and Cambridge, MA on August 8, 1988. The dates of the agreements for interim referrals were: State of Georgia, August 1, 1988; State of Ohio, August 2, 1988; Albany, New York, July 22, 1988; Durham, North Carolina, August 8, 1988; Greensboro, North Carolina, August 18, 1988; and Lee County, Florida, August 26, 1988.

In accordance with 24 CFR 50.20(k), this notice is not subject to the

environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this notice would not have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

Date: October 7, 1988.

William E. Wynn,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 88-24525 Filed 10-21-88; 8:45 am]

BILLING CODE 4210-28-M

Office of Administration

[Docket No. N-88-1881]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Report Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 17, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Requisition for Development or Modernization Funds.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: The U.S. Housing Act of 1937, as amended, authorizes HUD to assist Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) in the development and rehabilitation of lower income housing. The financial assistance is obtained by the PHSs/IHAs submitting to HUD an approved form, Requisition for Development and Modernization Funds.

Form Number: HUD-5402.

Respondents: State or Local Governments.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Requisition Form	2,300		25		.5		28,750

Total Estimated Burden Hours: 28,750.

Status: Extension.

Contact: Stephanie Avery-Boyd, HUD, (202) 755-7920; John Allison, OMB, (202) 395-6880.

Date: October 13, 1988.

Proposal: Litigation Reporting and Related Requirements for Certain Recipients of HUD Assistance (FR-2134).

Office: General Counsel.

Description of the Need for the Information and its Proposed Use. This proposed rule would specify litigation reporting and related requirements for certain recipients of HUD assistance, including the circumstances under which these recipients must report their litigation activity to HUD, and prohibits recipients from using HUD assistance to pay the costs of litigation against the United States.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Reporting Requisition	458		11.3		2.2		11,383

Total Estimated Burden Hours: 11,383.

Status: New.

Contact: Sharmeen Dosky, HUD, (202) 755-7055; John Allison, OMB, (202) 395-6880.

Date: October 12, 1988.

[FR Doc. 88-24463 Filed 10-21-88; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

August 31, 1988.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance office and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7340.

Title: Direct Loan and Guaranty Loan Program, Applications and Requirements (25 CFR Parts 101 and 103).

OMB Approval Number: 1076–0020.

Abstract: To provide financial assistance to tribes, tribal organizations, and individuals through the Direct Loan and Loan Guaranty Programs to promote economic development on or near reservations. The forms require certain financial data, background information, and project feasibility to determine the eligibility and potential success of the business.

Bureau Form Numbers: BIA Forms 4729, 4737, 4738, 3739, 3740, 4741, 4706, 4745, 4753, 4755, 4759, 4760, and 4749.

Frequency: On occasion.

Description of Respondents: Indian tribes, Indian organizations, and Indian individuals.

Estimated Completion Time:

Form	Time
4729	2 hours, 25 minutes.
4737	3.5 hours.
4738	15 minutes.
4739	20 minutes.
4740	1 hour.
4741	1 hour.
4706	30 minutes.
4745	5 minutes.
4753	30 minutes.
4755	30 minutes.
4759	30 minutes.
4760	30 minutes.
4749	30 minutes.

Annual Responses: 1,657.

Annual Burden Hours: 985.

Bureau Clearance Officer: Cathie Martin (202) 343–3577.

Joe C. Christie,

Acting Deputy to the Assistant Secretary—Indian Affairs (Trust and Ecanamic Development).

[FR Doc. 88–24530 Filed 10–21–88; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AK–968–4213–15; AA–6661–B; AA–6661–G]

Alaska Native Claims Selections; Eklutna, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Eklutna, Inc. for approximately 26,258 acres. The lands involved are in the vicinity of Eklutna, Alaska, within the following townships:

Seward Meridian, Alaska

T. 15 N., R. 1 E.
T. 14 N., R. 2 E.
T. 15 N., R. 2 E.
T. 14 N., R. 3 E.
T. 15 N., R. 3 E.
T. 16 N., R. 3 E.
T. 15 N., R. 1 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in THE ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until November 23, 1988 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ramona Chinn,

Chief, Branch of Caak Inlet and Ahtna Adjudication.

[FR Doc. 88–24469 Filed 10–21–88; 8:45 am]

BILLING CODE 4310–JA–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Alaska Outer Continental Shelf (OCS) Social Indicators Survey.

OMB Approval Number: 1010–0069.

Abstract: Respondents supply information and date to establish measures of well-being of rural population potentially affected by OCS activity. This information will allow the Agency to establish a basis to describe, project, and monitor the effects of major Federal actions on the Alaskan OCS.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Residents in rural Alaska potentially affected by OCS leasing.

Estimated Completion Time: 1 hour.

Annual Responses: 375.

Annual Burden Hours: 290.

Bureau clearance officer: Dorothy Christopher (703) 435–6213.

Date: September 8, 1988.

Bruce G. Weetman,

Acting Assaciate Director for Offshore Minerals Management.

[FR Doc. 88–24481 Filed 10–21–88; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-250 (Sub-No. 1X; (Sub-No. 252X)]

Cadiz Railroad Co.; Abandonment and Discontinuance Exemption in Caldwell, Christian, and Trigg Counties, KY and CSX Transportation, Inc.; Abandonment Exemption in Caldwell and Christian Counties, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Cadiz Railroad Company (Cadiz Rail) of 8.15 miles of its own track from the terminus near Cadiz, KY to Gracey, KY and discontinuance of operations by Cadiz Rail over 20.7 miles of track leased from CSX Transportation, Inc. (CSXT), which extends from Princeton, Caldwell County, KY to Gracey, Christian County, KY. It also exempts the abandonment by CSXT of the same 20.7 miles of track between Princeton and Gracey, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, the exemptions will be effective on November 23, 1988. Formal expressions of intent to file and offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by November 3, 1988, petitions to stay must be filed by November 8, 1988, and petitions for reconsideration must be filed by November 18, 1988. Requests for a public use condition must be filed by November 3, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 252X) and Docket No. AB-250 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representatives: R. Lyle Key, Jr. (J150), Senior Counsel, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202

and

Donnie Holland, President, Cadiz Railroad Company, Cadiz, KY 42211

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.]

Decided: October 18, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 88-24482 Filed 10-21-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 80X)]

Missouri Pacific Railroad Co.—Abandonment Exemption—Zavala County, TX

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 17.1-mile line of railroad between milepost 147.4 near Crystal City and milepost 164.5 near La Pryor, in Zavala County, TX.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective November 23, 1988 (unles stayed pending reconsideration). Petitions to stay regarding matters that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by November 3, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 14, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives: Joseph D. Anthofer and Jeanna L. Regier, Room 830, 1416 Dodge Street, Omaha, NE 67179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 27, 1988. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 13, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-24219 Filed 10-21-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB); Correction

AGENCY: Office of the Secretary.

ACTION: Notice of correction.

---

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440-48446).

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effecitve date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988).

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440-48446).

SUMMARY: This notice corrects the recordkeeping/reporting requirements reported for the Office of Federal Contract Compliance Programs (OFCCP) to include the frequency of response and the total number of respondents which were inadvertently omitted from the notice published in the Federal Register Friday, October 14, 1988 (53 FR 40283).

FOR FURTHER INFORMATION CONTACT: Mrs. Theresa O'Malley at (202) 523–6423.

To add as follows:

1. Frequency of response: One-time, nonrecurring.

2. Number of respondents: 7,442 contractors.

Signed at Washington, DC this 19th day of October, 1988.

Theresa O'Malley,

Acting Departmentol Clearonce Officer.

[FR Doc. 88–24484 Filed 10–21–88; 8:45 am]

BILLING CODE 4510-23-M

Mine Safety and Health Administration

[Docket No. M–88–173–C]

Shanne Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Shanne Coal Corporation, P.O. Box 609, Big Rock, Virginia 24603 has filed a petition to modify the application of 30 CFR 75.329–1 (sealing or ventilation of pillared or abandoned area) to its Shanne Mine No. 1 (I.D. No. 44–06422) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that pillared or abandoned areas be sealed or ventilated.

2. Petitioner states that due to adverse roof conditions and an unmeasurable quantity of water, the old mine adjacent to Shanne Mine No. 1 should not be cut into as required by present plans.

3. As an alternate method, petitioner proposes to bleed air into the old works from the belt entry and establish monitoring stations where quality and quantity of air passing over old works can be monitored.

4. In support of this request, petitioner states that—

(a) The monitoring stations would be evaluated at least once a shift by certified personnel, and

(b) The mine is located above drainage and methane has never been detected. Also, the mine fan operates continuously.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulotions and Variances.

Date: October 11, 1988.

[FR Doc. 88–24485 Filed 10–21–88; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting Postponed

The Advisory Committee on Nuclear Waste (ACNW) meeting scheduled for November 2–4, 1988, Room P–114, 7920 Norfolk Avenue, Bethesda, MD has been postponed and will be rescheduled. This meeting notice was previously published on Thursday, October 13, 1988 (53 FR 40147).

Date: October 19, 1988.

Andrew L. Bates,

Advisory Committee Monogement Officer.

[FR Doc. 88–24499 Filed 10–21–88; 8:45 am]

BILLING CODE 4160-01-M

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing; Correction

On August 25, 1988, the **Federal Register** published the Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing. The following correction needs to be made to that notice:

On page 32485, paragraph 4, last sentence should read, "A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006." On page 32485, paragraph 7 should read, "For further details with respect to this action, see the application for amendment dated August 12, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Local Public Document Room, Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803."

Dated at Rockville, Maryland, this 14th day of October 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV, Division of Reoctor Projects—III, IV, V ond Speciol Project, Office of Nucleor Reoctor Regulotion.

[FR Doc. 88–24487 Filed 10–21–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–458]

Gulf States Utilities Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47, issued to Gulf States Utilities Company (the licensee), for operation of the River Bend Station, Unit 1 located in West Feliciana Parish, Louisiana.

The amendment would revise the Technical Specifications to (1) revise the primary containment integrity requirements during fuel handling to permit performance of a limited number of Type C local leak rate tests of liquid filled lines while handling irradiated fuel; and (2) revise the decay time required for the irradiated fuel before the vent and drain line pathways can be opened for the purpose of performing the local leak rate tests in accordance with the licensee's application for amendment dated September 28, 1988.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 23, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10

CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to interevene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and number; date Petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated September 28, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Local Public Document Room, Government Documents Department, Louisiana State University, Baton Rouge, Lousiana 70803.

Dated at Rockville, Maryland, this 14th day of October 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–24488 Filed 10–21–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–324; License No. DPR–6; EA 88–131]

Carolina Power & Light Co., Brunswick Unit; Order Imposing Civil Monetary Penalty

I

Carolina Power and Light Company, Raleigh, North Carolina (licensee), is the holder of Operating License No. DPR–62 (license) issued by the Nuclear Regulatory Commission (Commission/NRC) on December 27, 1974. The license authorizes the licensee to operate Unit 2 of the Brunswick facility in accordance with the conditions specified therein.

II

NRC inspections of the licensee's activities under the license were conducted on April 1–30 and May 1-June 3, 1988, respectively. The result of these inspections indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated July 25, 1988. The Notice stated that the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee reponded to the Notice by letters dated August 24 and September 26, 1988. In its response, the licensee admitted the violations but stated that escalation of the civil penalty under 10 CFR Part 2, Appendix C, is inappropriate. The licensee submitted a check for $50,000 and took exception to the $25,000 escalation.

III

After consideration of the licensee's reponse and the statements of fact, explanations, and argument for reduction contained therein, the Deputy Executive Director for Regional Operations has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (ACT) 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay the remainder of the civil penalty in the amount of Twenty Five Thousand Dollars ($25,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, D.C. 20555, with copies to the Assistant General Counsel for Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Regional Administrator, Region II, 101 Marietta Street NW., Atlanta, Georgia 30323, and the NRC Resident Inspector, Brunswick Steam Electric Plant.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions to this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether the unpaid remainder of the civil penalty should be imposed.

For the Nuclear Regulatory Commission.

James M. Taylor,
Deputy Executive Director for Regional Operations.

Dated at Rockville, Maryland this 14th day of October 1988.

Appendix—Evaluation and Conclusion

On July 25, 1988, a Notice of Violation and Proposed Imposition of Civil Penalty was issued for violations identified during routine NRC inspections. CP&L responded to the Notice on August 24, 1988 and September 26, 1988. In its response, the licensee admitted the violations, paid $50,000 of the proposed $75,000 civil penalty, but took exception to the $25,000 escalation as inappropriate and not justified. The NRC staff's evaluation and conclusion regarding CP&L's response is as follows:

I. Restatement of Violations

A. Technical Specification (TS) 3.0.4 states that entry into an OPERATIONAL CONDITION or other specified applicability state shall not be made unless the conditions of the Limiting Condition for Operation are met without reliance on provisions contained in the ACTION statements unless otherwise excepted.

TS 3.5.3.2 requires in Operational Conditions 1, 2, and 3 that two independent low pressure coolant injection (LPCI) subsystems of the residual heat removal (RHR) system be OPERABLE with each subsystem comprised of two pumps and an OPERABLE flow path capable of taking suction from the suppression pool and transferring the water to the reactor pressure vessel.

TS 3.6.1.1 requires in Operational Conditions 1, 2, and 3 that primary containment integrity be maintained.

TS 3.6.1.3 requires in Operational Conditions 1, 2, and 3 that the primary containment air lock be OPERABLE with: (1) both doors closed except when the air lock is being used for normal transit entry and exit through the containment, then at least one air lock door shall be closed; and (2) an overall air lock leakage rate of less than or equal to $0.05L_a$ at P_a, 49 psig.

Contrary to the above, at 4:35 a.m. on April 26, 1988, Unit 2 entered Operational Condition 2 when the unit's mode switch was placed in the "startup/hot standby" without RHR Division II being aligned for automatic LPCI initiation, without primary containment integrity being established, and with the primary containment air lock doors open.

B. Technical Specification 6.8.1.a requires that written procedures shall be implemented for applicable procedures recommended in Appendix A of Regulatory Guide 1.33, November 1972. Appendix A requires operating procedures for the RHR system. Operating Procedure, OP–17, RHR System Operating Procedure, Revision 76, implements this requirement and requires that the RHR heat exchanger outlet valve (E11–F003A) be either in the fully open or closed position during the shutdown cooling mode.

Contrary to the above, OP–17 was not fully implemented on May 11, 1988, in that valve E11–F003A was used in the throttled position during the shutdown cooling mode on Unit 2.

C. TS 3.3.1 requires, as a minimum, that the reactor protection system (RPS) instrumentation channels shown in TS Table 3.3.1–1 be operable. Accordingly, notation "b" of TS Table 3.3.1–1 requires that while in Operational Condition 5, "shorting links" be removed from the RPS circuitry prior to and during the time any control rod is withdrawn.

Contrary to the above, from 3:50 a.m. until 7:48 p.m., on March 8, 1988, with the reactor in Operational Condition 5, Unit 2 control rod 10–39 was in the fully withdrawn position and the shorting links were not removed from the RPS circuitry.

II. Summary of Licensee Response

The licensee, in its response, admits the violations and agrees that the violations, when viewed together, identify an issue of critical importance to the safe operation of the Brunswick Plant and meet the criteria for imposition of a civil penalty.

The licensee makes the following arguments relative to the 50% escalation of the base civil penalty:

a. Escalation of the civil penalty for an event lacking serious safety significance is not justified, simply because the event has been collectively incorporated with two other events.

b. The three events were collectively categorized as Severity Level III. Combination of such events allows the overall safety significance of similar issues to be put into proper perspective. However, once these events have been combined to represent a more significant concern, they lose their unique identity. Thus, considerations for escalation of the penalty must be evaluated against the violation as a whole (i.e., the combination of the three violations) since that is what provides the justification for the base civil penalty.

c. The three violations cited individually do not have serious safety significance and, therefore, if cited individually, would not warrant a civil penalty. Considerations for escalation were based solely on Violation B; not on the violation as a whole. Thus, the escalation of the civil penalty based on past performance is inappropriate.

III. NRC Staff's Evaluation of Licensee Response

In asserting that the NRC staff is escalating the civil penalty based on one of the events cited in the Notice, the

licensee demonstrates that basis for escalation was misunderstood. The civil penalty was escalated for past poor performance in the area of control of operations. This past poor performance was specifically illustrated by a January 1988 heatup event which was not cited in this Notice but was similar to the May 11, 1988 event which was cited.

The NRC staff agrees with the licensee that escalation of a civil penalty must be considered in the context of the overall problem. However, the NRC staff does not agree that such an overall evaluation was not made in this case.

Based on an event from the recent past the NRC staff concluded that escalation for past poor performance was appropriate given that the licensee had not implemented earlier broad corrective actions to prevent future problems similar to those cited in the Notice. Further, though only one example of past poor performance was specifically noted, other events such as the mispositioning of an RHR minimum flow valve in February 1987 were considered when the NRC staff decided to escalate the civil penalty for past poor performance.

The licensee's argument that the considerations for escalation were based solely on Violation B and not on the problem as a whole is incorrect. While Violation B is most similar to the previous event, each of the three violations were symptomatic of lack of awareness and attitude to detail for control room activities. The safety significance of the Severity Level III problem was derived from indications that lack of awareness and attention to detail for control room activities was not an isolated problem in the operations staff. The escalation for poor past performance was based on a prior example of this problem, e.g., lack of attention to detail on the part of the operations staff, and NRC staff's conclusion that CP&L did not learn from the first event and aggressively pursue the underlying cause.

IV. NRC Staff's Conclusion

The licensee did not provide a sufficient basis for reduction of the proposed $75,000 civil penalty. Therefore, the NRC staff concludes that the unpaid balance ($25,000) of the civil penalty should be imposed.

[FR Doc. 88-24489 Filed 10-21-88; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. C89-1]

Complaint of Third Class Mail Association; Order on Filing of Complaint of Third Class Mail Association

Issued October 18, 1988.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

On October 17, 1988, the Third Class Mail Association (TCMA) filed a complaint with the Commission pursuant to 39 U.S.C. 3662. TCMA requests that the Commission investigate whether the continued application of the Private Express Statutes (39 U.S.C. 601 *et seq.)* to addressed advertising mail is in the public interest and consistent with the policies of the Postal Reorganization Act, and to issue a public report recommending to the Board of Governors of the Postal Service that it suspend the Postal Service's monopoly with respect to addressed third class mail.

In its complaint, TCMA indicates that the Postal Service has already refused a request to initiate a notice and comment rulemaking to consider this issue. Therefore, it appears that rule 85 informal procedures will not be useful at this time.

Under provisions of Subpart E of our rules the Postal Service is to provide an answer to this complaint by November 16, 1988. Interested persons wishing to participate in any proceedings concerning this complaint may file a notice of intervention. We shall appoint Stephen A. Gold, Director of the Office of Consumer Advocate, to represent the interest of the general public in this proceeding.

It is ordered:

1. Notice is given that the Third Class Mail Association has filed a complaint concerning the continued application of the Private Express Statutes to addressed third class mail.

2. Stephen A. Gold, Director of the Office of the Consumer Advocate, is appointed to represent the interest of the general public in this proceeding.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 88-24462 Filed 10-21-88; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 26198; File Nos. SR-CBOE-88-14; SR-NASD-88-46; SR-NYSE-88-22; SR-NYSE-88-23; SR-NYSE-88-24; and SR-AMEX-88-24

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; National Association of Securities Dealers, Inc.; New York Stock Exchange, Inc.; American Stock Exchange, Inc.; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Market Circuit Breaker Proposals

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the New York Stock Exchange, Inc. ("NYSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the American Stock Exchange, Inc. ("AMEX"), and the National Association of Securities Dealers Inc. ("NASD") [collectively, the self-regulatory organizations ("SROs")] have filed with the Securities and Exchange Commission ("Commission") proposed rule changes to implement certain procedures that will be activated during volatile market conditions.

The NYSE proposals were published for comment in the Federal Register.[3] No comments were received on the NYSE proposed rule changes. The CBOE, NASD, and AMEX proposal were filed on September 20, 1988, October 7, 1988, and October 14, 1988, respectively, and have not previously been published for comment in the Federal Register.

I. Description of the Proposals

A. The Circuit Breaker Proposals

(1) File No. SR-NYSE-88-23 contains the NYSE's proposed Rule 80B and corresponding amendments to NYSE Rules 717 and 750 that provide for a temporary halt in the trading of all stocks, stock options, and stock index options on the NYSE if the Dow Jones Industrial Average ("DJIA") reaches certain trigger values. Trading would halt for one hour if the DJIA declines 250 or more points from its previous day's

[1] 15 U.S.C. § 78s(b) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] File No. SR-NYSE-88-22 was noticed in Securities Exchange Act Release No. 26061 (September 6, 1988), 53 FR 35396; File No. SR-NYSE-88-23 was noticed in Securities Exchange Act Release No. 26062 (September 6, 1988), 53 FR 35399; and File No. SR-NYSE-88-24 was noticed in Securities Exchange Act Release No. 26115 (September 26, 1988), 53 FR 39393. The releases contain the full text of the NYSE's proposed rules.

closing level; once trading has been reopened, trading would halt for an additional two hours if the DJIA declines 400 points from the previous day's close.[4] Under the NYSE's proposal, trading would resume following a halt pursuant to procedures similar to those used by the NYSE to open trading on "Expiration Fridays," the days that stock options, stock index options, and stock index futures expire simultaneously.[5]

The NYSE proposes to implement Rule 80B for a one year pilot period. The NYSE originally stated that the rule would not become effective until all other U.S. stock and options exchanges, the NASD, and U.S. futures markets that trade futures on stock index groups (and options on such futures), adopt corresponding rules, and such rules received all necessary regulatory approvals and become effective.[6] The NYSE subsequently amended its filing to make its rule effective upon approval by the Commission.[7]

In support of its proposal, the NYSE argues that Rule 80B's trading halts would help promote stability in the stock market by providing market participants with time to restablish an equilibrium between buying and selling interest and by helping to ensure that all market participants have a reasonable opportunity to become aware of and to respond to significant market price movements. The NYSE's proposal also responds to a recommendation contained in the Interim Report of the Working Group on Financial Markets ("Working Group") issued in May, 1988 by the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the CFTC, and the Board of Governors of the Federal Reserve System. In its report, the Working Group recommended "coordinated trading halts and reopenings for large, rapid market declines that threaten to create panic conditions." The Working Group specifically recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, and stock index futures—halt trading for one hour if the DJIA declines 250 or more points from its previous day's closing level and for two additional hours if the DJIA declines 400 points from the previous day's close.

(2) File No. SR–CBOE–88–14 contains the CBOE's proposal for responding to the activation of circuit breakers in the underlying primary securities markets or to the activation of futures market circuit breakers. Proposed CBOE Rule 6.3A provides that the CBOE would halt trading in all stock options and stock index options when trading in all stocks on the NYSE has been halted as a result of activation of circuit breakers pursuant to NYSE Rule 80B. Proposed CBOE Rule 6.3A also provides procedures for reopening options after such a halt. Reopening rotations for stock options would be held as soon as practicable after the CBOE determined that a halt was no longer in effect in the primary market for each underlying security. Reopening rotations for stock index options would be held as soon as practicable after the CBOE determined that a halt was no longer in effect in the primary market of the securities constituting 50% or more of the index value.[8] Such reopening procedures would be held only when two CBOE floor officials, in consultation with a designated senior executive officer of the CBOE, concluded that the interests of a fair and orderly market would be served by a resumption of trading.

The COBE's proposed amendment to Rule 24.7 [9] provides that the CBOE will halt trading in stock index options ten minutes after two floor officials, in consultation with a designated senior executive officer of the CBOE, have determined that specified circuit breakers have been activated to halt the trading of futures on the same or a related index and that there is no indication that active trading in the futures contract is about to commence.[10] The proposed amendment provides that index option trading may resume two minutes after active trading has resumed in the futures contract, provided that the CBOE has determined that a trading halt is not in effect in the primary market for underlying securities constituting 50% or more of the index value and two CBOE floor officials, in consultation with a designated senior executive officer of the CBOE, conclude that the interests of a fair and orderly market would be served by a resumption of trading. In support of its proposed rule change, the CBOE states that the various studies of the October market break have noted the interdependence of the stock, options, and futures markets, and states that its proposal represents a derivative market response to the circuit breaker policies of the stock exchanges and futures markets.

(3) File No. SR–AMEX–88–24 contains the AMEX's circuit breaker proposal. The AMEX's proposal is substantially identical to the NYSE's proposed Rule 80B. Under the AMEX's proposal, trading in all stocks and options will

---

[4] If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if the 400-point trigger is reached within two hours of the scheduled close of the trading day, trading will halt for the remainder of the day. If, however, the 250-point trigger is reached between one hour and one-half hour before the scheduled closing, or if the 400-pont trigger is reached between two hours and one hour before the scheduled closing, the NYSE would retain the power to use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices. The NYSE has stated that it will file these reopening procedures with the Commission for approval and will circulate them to members and member organizations before these procedures are implemented.

[5] *See* Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23474.

[6] The futures exchanges have proposed analogous trading halts. For example, the Chicago Mercantile Exchange ("CME") proposed a 30-point price limit for its Standard and Poor's 500 Stock Index ("S&P 500") futures contract ("SPZ") that would be transformed into a one-hour NYSE–CME coordinated trading halt if the DJIA declines 250 points and the NYSE suspends trading. Upon reopening, CME trading would halt for two hours if the SPZ were to fall another 20 points, the DJIA declined 400 points, and the NYSE suspended trading for two hours. Letter from Todd E. Petzel, Vice President, Financial Research, CME, to Jean A. Webb, Secretary, Commodity Futures Trading Commission ("CFTC"), dated September 1, 1988. *See* letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade ("CBT"), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade ("KCBT"), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, New York Futures Exchange ("NYFE"), dated September 2, 1988.

[7] Letter from Richard A. Grasso, President and Chief Operating Officer, NYSE, to Richard Ketchum, Director, Division of Market Regulation, Commission, dated October 17, 1988. The AMEX also imposed such a contingency in its proposed rule change, described *infra*. The AMEX subsequently amended its filing to make its rule effective upon the adoption of substantively identical rules by the NYSE, CBOE, and NASD.

Letter from Claire P. McGrath, Staff Attorney, AMEX, to Howard Kramer, Assistant Director, Division of Market Regulation, Commission, dated October 17, 1988.

[8] For example, the NYSE is the primary market of the securities constituting 50% or more of the value of every index option traded on the CBOE, including the Standard and Poor's 100 Stock Index ("OEX") option. The CBOE would hold a reopening rotation for OEX options as soon as practicable after a determination is made that a halt was no longer in effect at the NYSE.

[9] Rule 24.7 also will be amended to remove the provision that trading in stock index options would be halted whenever trading in stocks repesenting 20% or more of the value of a market index (10% or more for an industry index) was halted. The CBOE would retain discretion to halt trading whenever two floor officials, in consultation with a designated senior executive officer of the CBOE, conclude in their judgment that such action is appropriate in the interest of a fair and orderly market and to protect investors. A trading halt in the underlying stocks whose weighted value represents 20% or more of the index value now will be one of three facts that may be considered by the CBOE in determining whether to halt trading in an index option.

[10] For example, trading would halt in the CBOE's S&P 500 Stock Index option ("SPX") ten minutes after circuit breakers have been activated to halt trading in the CME's S&P 500 futures contract.

halt for one hour if the DJIA declines 250 or more points from its previous day's closing level; once trading has been reopened, trading will halt for an additional two hours if the DJIA declines 400 points from the previous day's close. The AMEX proposal contains provisions for halting trading for the remainder of the day and using abbreviated reopening procedures that are substantially identical to the NYSE proposed procedures described in note 4, *supra*. The AMEX proposes to implement its rule change for a one-year pilot period.[11]

The AMEX's proposal also provides that the AMEX will halt trading in stock index options ten minutes after the AMEX has determined that specified circuit breakers have been activated to halt the trading of futures on the same or a related index and that there is no indication that active trading in the futures contract is about to commence. As with the CBOE proposal, the AMEX's proposed rule change provides that index option trading may resume two minutes after active trading has resumed in the futures contract, as long as the AMEX has determined that underlying securities constituting 50% or more of the index value are not subject to a trading halt in the primary market for such securities, and two Floor Governors in consultation with a senior executive officer of the AMEX conclude in their best judgment that the interests of a fair and orderly market are served by a resumption of trading.

(4) The NASD has filed with the Commission a Policy Statement on Market Closings ("Policy Statement"), File No. SR–NASD–88–46, that states that, at times when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, the NASD will, upon request from the Commission, act to halt domestic trading in all securities quoted on the National Association of Securities Dealers Automatic Quotation ("NASDAQ") system and domestic trading in equity or equity-related securities in the over-the-counter ("OTC") market. The NASD's Policy Statement will be effective until December 31, 1989 unless modified or extended prior to that date.

B. The "Sidecar" File Proposal

File No. SR–NYSE–88–22 contains proposed New Rule 80A. New Rule 80A deletes current Rule 80A, which imposed certain restrictions on the use of automated NYSE order routing systems during times of market volatility and was approved by the Commission on April 19, 1988 for a six month pilot period.[12]

The NYSE's proposed New Rule 80A will apply certain trading limitations during significant market declines. The restrictions of New Rule 80A will apply when the price of the primary S&P 500 futures contract ("S&P 500 futures") traded on the CME[13] falls 12 points below the previous trading day's closing value (the approximate equivalent of a 96 point fall in the DJIA). Under New Rule 80A, the public will be notified that the S&P 500 futures contract has declined 12 points and that the following action is being taken. For the next five minutes after the 12 point trigger value is reached, market orders involving program trading in each of the stocks underlying the S&P 500 futures entered into the NYSE's automated order-routing system, the Designated Order Turnaround ("DOT") System,[14] will be routed into a separate file for each of the stocks (the sidecar file). Buy and sell orders for each stock will be paired in the sidecar files to determine the extent of the order imbalance.

Five minutes after the price of the S&P futures reaches the trigger value, the orders in the file for each stock, and the order imbalance, if any, will be reported to the public and to the specialists for the stocks. At that point, the orders will be eligible for execution.[15] If there is not sufficient trading interest to allow for an orderly execution of a transaction in a stock, trading in that stock will halt. As with the circuit breaker proposal discussed above, trading would resume following such a halt pursuant to procedures to be adopted that will be similar to those used by the NYSE to open trading on Expiration Fridays. The sidecar file provisions would apply only once per day,[16] and would not apply during the last 35 minutes of a trading day.

"Program trading" will be defined in New Rule 80A to include "index arbitrage," as defined in current Rule 80A, as well as any coordinated trading strategy involving the related purchase or sale of a "basket" of 15 or more stocks with a market value of $1 million or more, even if the orders are not related to a future or an option on a stock market index and are not entered or executed contemporaneously.[17] "Index arbitrage" is defined as the trading of "baskets" or groups of stocks in conjunction with the trading of one or more cash-settled options or futures contracts on stock index groups, or options on such futures contracts (collectively referred to as "derivative index products") in an attempt to profit from price discrepancies between the stocks and derivative index products. The index arbitrage definition would require only that the purchase or sale of the derivative index products be related. Those trades would not have to be executed simultaneously, as some index arbitrage strategies allow for time lags between the executions of the two legs of a transaction.

The NYSE's proposed New Rule 80A also will restrict the entry of new stop orders or stop limit orders (collectively, "stop orders") for the remainder of the trading day when the 12 point trigger value has been reached. The only allowable stop orders would be individual investor orders of 2,099 shares or fewer where the individual investor has made the investment decision.[18] The rule would not allow such orders if they are entered by and pursuant to the instructions of professional managers, including investment advisors and account executives having discretion over an individual's account.

New Rule 80A, as well as the proposed amendments to Rule 80B, are

[11] Tha AMEX also proposes to amend Rule 918C to remove the provision that trading in stock index options shall be halted whenever trading in stocks representing 20% or more of the value of the index has been halted. The AMEX will retain discretion to halt trading in stock index options whenever such a halt is deemed appropriate in the interests of a fair and orderly market or to protect investors. A trading halt in the primary market for underlying stocks accounting for 20% or more of the index value now will be one of four factors that may be considered by the AMEX in determining whether to halt trading in an index option.

[12] Securities Exchange Act Release No. 25599 (April 19, 1988), 53 FR 13371.

[13] The primary futures contract is the one with the largest trading volume, usually the lead month contract. The CME will inform tha NYSE when the primary futures contract changes.

[14] The DOT system, also known as SuperDOT, was developed by the NYSE to facilitate routing of orders from NYSE members' offices to the specialist in a particular stock on the floor of the NYSE.

[15] Orders in the sidecar file will have execution priority under NYSE Rule 72 as of the time the orders are reported to the specialist.

[16] The NYSE's circuit breaker proposal, described above, would apply to halt all trading if there were significantly greater market declines during a trading day.

[17] The NYSE stated that index arbitrage is included separately as a form of program trading because the NYSE seeks to capture within New Rule 80A certain forms of index arbitrage that may involve fewer than 15 securities or less than $1 million in market value.

[18] In its filing, the NYSE stated that the term "individual investor" is defined to parallel the concept of "natural person" contained in section 11(a)(1)(E) of the Act, including the Commission's interpretations pursuant to that section. Section 11(a)(1)(E) applies to "any transaction for the account of a natural person, or a trust (other than an investment company) created by a natural person for himself or another natural person."

the result of a cooperative effort between the NYSE and the CME, who have agreed to implement coordinated procedures to address market volatility. The CME also has proposed a new rule that will apply when the trigger value is reached. When the S&P futures falls 12 points, the CME will not permit the price of any futures contract on the S&P 500 to fall further for one-half hour. The CME will, in effect, impose a 30 minute price limit.[19]

The NYFE also has proposed a rule that will operate in conjunction with NYSE Rule 80A.[20] The NYFE will implement a price limit that will halt trading for thirty minutes when the NYSE Composite Index futures contract falls seven points (approximately 96 DJIA points). Similar provisions have been adopted by the NYFE for futures contracts on the Russell 3000, Russell 1000, and Russell 2000 stock indexes.

In support of proposed New Rule 80A, the NYSE argues that New Rule 80A responds to concerns expressed in the Commission staff's Market Break Report [21] on the interaction between the equities and futures markets, and the effect of such interaction on market volatility and investor confidence and participation in the stock market. In particular, the NYSE argues that channelling program trades into a sidecar file at times of market volatility is an attempt to isolate one potential cause of market volatility, program trading, from other market activity and to enhance the ability to offset order imbalances created by such program trading. Proposed New Rule 80A also will help reduce volatility by adopting special procedures when there are large order imbalances. The NYSE also believes that restricting professional use of stop orders will help to decrease market volatility during periods of market stress.

C. The "Investor Express" Proposal

In File No. SR–NYSE–88–24 the NYSE submitted a proposed rule change that will add a new feature to the NYSE's SuperDOT system, called the Individual Investor Express Delivery Service ("IIEDS"). Under IIEDS, simple market orders of individual investors [22] of up to 2,099 shares entered on the SuperDOT system will be given priority in delivery to the specialist's post for execution, ahead of any other orders being routed over the SuperDOT System. Under the proposal, IIEDS will be activated on any trading day when the DJIA rises or falls 25 points from the average as of the previous trading day's close, and will remain in effect for the remainder of the trading day that it is activated.

Only buy or sell round-lot market orders and good until canceled ("GTC") market orders are eligible for priority delivery, via SuperDOT, to the specialist under IIEDS.[23] Orders that are not eligible for IIEDS include market orders to buy minus, sell plus, sell short, or buy or sell stop, all or none orders, and all limit orders.[24] In addition, IIEDS will not be available for orders entered by and pursuant to instructions of professional managers, including investment advisors and account executives having discretion over an individual's account.

It should be noted that the proposed IIEDS service will only provide priority delivery to the specialist's post for eligible orders of individual investors entered on the SuperDot system. Once an IIEDS order has been delivered to the specialist's post, the order will be executed by the specialist in accordance with normal auction market procedures.[25]

In support of its proposal, the NYSE states that IIEDS is a reasonable means of enhancing the confidence of individual investors that their orders will be efficiently and effectively processed in the NYSE marketplace, particularly during volatile market conditions.

In addition, File No. SR–NYSE–88–24 contains a proposal to adopt new order identification codes that will provide more precise identification of customer and trading strategies. The new identification codes will facilitate the implementation of IIEDS and also will facilitate implementation of the limitations on trading during significant market declines contained in the NYSE's proposed New Rule 80A.[26]

The proposal will add new indicator code symbols to the principal/agency ("P/A") field for audit trail information member firms are required to provide for orders entered on the SuperDot system.[27] The new indicator code symbols will enable the NYSE to distinguish between orders for individuals and all other agency trading.[28]

In addition, the new indicator code symbols, supplementing those indicator code symbols already in use, will enable the NYSE to identify more precisely the trading strategies being utilized by the customer. For example, the proposed indicator code symbols will permit the NYSE to identify orders that are entered as program trading, and will enable the NYSE to determine whether the order is a part of an index arbitrage strategy and whether the order is for a member firm's proprietary account or for a customer's account. The new indicator code symbols identifying program trading will give the NYSE the capability to implement the proposed limitations on trading during periods of severe market declines contained in the NYSE's proposed New Rule 80A.[29]

II. Commission Analysis

The Commission continues to believe that the primary focus in responding to the events of October 1987 "should be on expanding the capacity of the markets through operational reforms and coordination measures," [30]

---

[19] *See* letter from Todd E. Petzel, Vice President, Financial Research, CME, to Jean A. Webb, Secretary, CFTC, dated September 1, 1988.

[20] *See* letter from Milton M. Stein, Vice President, Regulation and Surveillance , NYFE, to Jean A. Webb, Secretary, CFTC, dated September 2, 1988.

[21] *The October 1987 Market Break* (February 1988) ("Staff Report").

[22] In its filing, the NYSE stated that the term "account of an individual investor" means an account under section 11(a)(1)(E) of the Act. *See* discussion at note 18, *supra*.

[23] IIEDS will provide odd-lot market orders priority delivery to the NYSE's limit order system for execution.

[24] The NYSE stated in its filing that a limit order which is canceled and replaced with a market order when it is entered as a single cancel/replacement order will not be eligible for IIEDS.

[25] The delivery priority granted IIEDS orders under the proposed rule change does not represent a change in priority or precedence rules for the execution of a bid or offer once it has been delivered to the specialist for execution. *See* NYSE Rules 71 and 72.

[26] *See* discussion at pp. 10–14, *supra*.

[27] For orders that are not entered on SuperDot, this audit trail information would be submitted after the order was executed for trade comparison purposes during the clearance and settlement process.

[28] For example, the NYSE indicator code symbols will distinguish individual trading from trading by a member firm on behalf of any other non-member or non-member organization.

[29] The NYSE has stated that it has reviewed the systems impact of the additional order identification code indicator symbol choices that will be used by SuperDot in connection with IIEDS. The Exchange has determined that the use of the new indicator code symbols for orders entered into SuperDot, which will be used by the system to determine whether an order is eligible for the IIEDS priority, will not degrade the capacity of the system because, although the proposal will add a number of choices for indicator code symbols identifying the type of customer and trading strategy, only a single indicator code symbol will be used for any given order. Thus, the system will still only need to read a single indicator code symbol in order to identify individual orders eligible for IIEDS. Telephone conversation between Brian McNamara, Managing Director, Market Surveillance, NYSE, and Robert Sevigny, Attorney, Division of Market Regulation, on October 14, 1988.

[30] Testimony of David S. Ruder, Chairman, Commission, "Securities and Exchange Commission Recommendations Regarding the October 1987 Market Break," before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, at 7 (February 3, 1988) ("February 3rd Testimony").

including efforts to enhance liquidity and improve information availability. Indeed, the Commission notes that the markets have undertaken a variety of steps to increase their capacities since the October 1987 market break.

Nevertheless, the Commission is concerned about the potential impact of periods of extreme volatility such as those that characterized the U.S. securites markets in October 1977. Accordingly, the Commission recognizes that it is desirable to design coordinated mechanisms to deal with potential strains that may develop during periods of extreme downward volatility.

The Commission also agrees with recommendations contained in both the *Report of the Presidential Task Force on Market Mechanisms* ("Brady Report") and in the Working Group's Interim Report that coordinated trading halt and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity-related products during large, rapid market declines. In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points below its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions. The Working Group's proposal is designed to substitute planned trading halts for unplanned and destabilizing market closings and to implement predictable procedures that enhance information flows.

The Commission believes that the rule proposals it is approving today represent efforts by the securities and futures markets to arrive at coordinated means to address potentially destabilizing market volatility as well as to help prevent another decline of the severity of the October 1987 market break.[31] The proposals do not constitute an attempt to prevent markets from adjusting to new price levels; instead, they represent reasonable means to retard extremely rapid market declines that can have a destabilizing effect on the nation's financial markets and participants.

In regard to the specific proposals presented by the NYSE, AMEX, CBOE, and NASD, the Commission finds that the circuit breaker proposals, in conjunction with the related proposals filed by the futures exchanges, will help promote stability in the equity and equity-related markets by providing for increased information flows and enhanced opportunity to assess information during times of extreme market movements. The circuit breaker proposals thus will provide market participants with an opportunity to re-establish an equilibrium between buying and selling interest and will ensure that market participants have a reasonable opportunity to become aware of and respond to significant price movements.[32] The Commission notes that the NASD stated in its Policy Statement that the NASD will halt trading in securities quoted on the NASDAQ system and trading in the OTC market only upon request from the Commission. The Commission hereby requests that the NASD implement its Policy Statement by imposing a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended tading (*i.e.*, whenever the DJIA declines 250 or 400 points).

In addition, the Commission finds that the NYSE's sidecar file proposal may enhance the orderliness of the markets during periods of substantial volatility. Routing orders designated as program trades onto a sidecar file and publicly disseminating any order imbalances will enhance the ability to attract contra side orders to offset such imbalances. The sidecar file proposal also may help reduce volatility by adopting special procedures for halting trading in stocks when there are large order imbalances and for resuming trading after such a halt. The Commission also finds that allowing individual investors to enter new stop orders as part of their trading strategies, while restricting the professional use of such orders when certain trigger values are reached, represents a reasonable response to the problem presented by smaller, individual investors who may not be able to monitor market conditions on a continuous basis and who desire a measure of downside protection in a rapidly moving market. In contrast, market professionals are able to monitor the market on a continuous basis and have less of a need to enter such orders in a rapidly moving market.

The Commission finds that the NYSE's investor express proposal may help restore confidence of individual investors that their orders will be efficiently and effectively handled in the NYSE marketplace during periods of volatility. More specifically, the IIEDS proposal will ensure that individual investors will not be in a position where their orders experience a delay in being routed to the specialist's post because they were waiting in queue behind larger institutional orders. At the same time, the existing priority rules for order execution will remain intact.

Accordingly, the Commission finds that the proposed rule changes filed by the NYSE, CBOE, AMEX, and NASD are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and/or to a national securities association, and, in particular, the requirements of section 6 [33] and/or section 15A [34] and the rules and regulations thereunder.

The Commission finds good cause for approving the COBE, AMEX, and NASD proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the Federal Register because they are similar in content to the published NYSE filing. In light of the absence of any comments on the NYSE filing and the Commission's view of the benefit that may accrue from adoption of coordinated circuit breakers that respond to stock market volatility and that may increase investor confidence in the markets, the Commission believes a good cause finding is fully justified. The Commission also finds good cause to accelerate the NYSE investor express proposal because we believe that the rule change can substantially increase investor confidence in the fairness of the securities markets.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

[31] The Brady Report recommended, among other things, that circuit breaker mechanisms, in order to be effective, need to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket failure of the kind experienced in October, 1987. *See* Brady Report. 66.

[32] The Commission notes that CBOE proposes to amend Rule 24.7 to remove the provision that states that trading in stock index options shall be halted whenever trading in stocks representing 20% or more of the value of a market index (10% or more for an industry index) has been halted. The Commission believes the proposed amendment does not reflect a change in CBOE's trading halt policy because a trading halt in underlying stocks whose weighted value represents 20% or more of the index value now will be one of three facts that may be considered by the CBOE in determining whether to halt trading in an index option. The Commission also believes that the fact that the concurrence of two CBOE floor officials and a designated senior executive officer of the CBOE is required before trading may resume should provide protection that the interests of a fair and orderly market are served by the resumption of trading after such a trading halt. Likewise, the Commission believes that the AMEX's similar proposal, described in note 11, *supra*, does not reflect a change in the AMEX's trading halt policy.

[33] 15 U.S.C. 78f (1982).

[34] 15 U.S.C. 78o–3 (1982).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change because the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE, CBOE, NASD, or AMEX. All submissions should refer to file number SR–NYSE–88–24, SR–CBOE–88–14, SR–NASD–88–46, or SR–AMEX–88–24, and should be submitted by November 14, 1988.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[35] that the proposed rule changes are approved.

By the Commission.

Jonathan G. Katz,

Secretary.

Dated: October 19, 1988.

[FR Doc. 88–24517 Filed 10–21–88; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to fund two additional Small Buisness Development Centers (SBDCs) during fiscal year 1989, subject to availability of funds. Currently, there are 52 SBDCs operating in the SBDC program. The two new SBDCs intended to be funded are California and Hawaii. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the proposal developers for the SBDCs expected to be funded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed funding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through January 23, 1989.

ADDRESS: Comments should be addressed to Ms. Janice E. Wolfe, Deputy Associate Administrator for Business Development for SBDC Program, U.S. Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Same as above

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically 135.4, SBA is publishing this notice to provide public awareness of the pending applications for funding of two proposed Small Business Development Centers (SBDCs). Also, published herewith is an annotated program announcement describing the SBDC program in detail.

The proposed SBDCs will be funded at the earliest practicable date following the 90-day comment period. However, no funding will occur unless all comments have been considered. Relevant information identifying the two proposed SBDCs and providing the mailing address of the proposal developers is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each of the affected State single points of contact which have been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 90 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 90-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center (SBDC) Program is a Business Development program of the U.S. Small Business Administration (SBA). The SBDC operates under the general management and oversight of SBA, but with recognition that a partnership exists between the Agency and the SBDC for the delivery of assistance to the small business community. SBDC services shall be provided pursuant to a negotiated Cooperative Agreement with full participation of both parties. SBDCs operate on the basis of a state plan to provide assistance within a state or designated georgraphical area. The initial plan must have the written approval of the Governor. As a condition to any financial award made to an applicant, non-Federal funds must be provided from sources other than the Federal Government. SBDCs operate under the provisions of Pub. L. 96–302, as amended by P.L. 98–395, a Notice of Award (Cooperative Agreement) issued by SBA, and the provisions of this Program Announcement.

Purpose and Scope

The SBDC Program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement. To accomplish these objectives, SBDCs link resources of the Federal, State, and local governments with the resources of the educational system and the private sector to meet the specialized and complex needs of the small business community. SBDCs also coordinate with other SBA programs of business development and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the state, academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources·

[35] 15 U.S.C. 78s(b)(2) (1982).

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise.

These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State. The SBDC shall also ensure that a full range of business development and technical assistance services are made available to small businesses located in rural areas.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform, but not be limited to, the following activities:

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

The Lead SBDC and all SBDC subcenters shall operate on a forty (40) hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year. The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Date: October 18, 1988.

James Abdnor,

Administrator.

Address of Proposed SBDCs and Proposal Developers

Dr. Edward Kormandy, Chancellor, University of Hawaii at Hilo, Hilo, Hawaii 96720, (808) 961–9444.

Mr. Richard B. Nelson, Executive Director, State of California, Department of Commerce, Office of Small Business, 1121 L Street, Suite 600, Sacramento, California 95814, (916) 445–6545.

[FR Doc. 88–24494 Filed 10–21–88; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 9:30 a.m. on Thursday, November 10, 1988 at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Conference Room 5309, Honolulu, Hawaii 96850, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or other present.

For further information, write or call Charles T.C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850 (808) 541–2990.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 18, 1988.

[FR Doc. 88–24495 Filed 10–21–88; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0517]

Sterling Commercial Capital, Inc.; Issuance of a Small Business Investment Company License

On July 15, 1988, a notice was published in the **Federal Register** (53 FR 26926) stating that an application has been filed by Sterling Commercial Capital, Inc., 175 Great Neck Road,

Great Neck, New York 11021, with the Small Business Administration (SBA) pursuant to §107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1988)) for a license as a small business investment company.

Interested parties were given until close of business August 15, 1988, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0517 on October 3, 1988, to Sterling Commercial Capital, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 17, 1988.

[FR Doc. 88-24496 Filed 10-21-8; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8-1230]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1:30 p.m. on Nov. 16, 1988, in room 6103, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

The purpose of the meeting is to finalize preparations for the 56th Session of the Council of the International Maritime Organization (IMO) which is scheduled for 21-25 November 1988 in London. In particular, the SHC will discuss the development of U.S. positions dealing with, inter alia, the following topics.

—Reports of the Major Committees

—Financial Matters

—Personnel Matters

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. G.P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, SW., Washington, DC 20593 or by calling: 202-267-2280.

October 13, 1988.

Thomas J. Wajda,

Chariman, Shipping Coordinating Committee.

[FR Doc. 88-24476 Filed 10-21-88; 8:45 am]

BILLING CODE 4710-07-M

UNITED STATES SENTENCING COMMISSION

Public Hearing on Organizational Sanctions

AGENCY: United States Sentencing Commission.

ACTION: Notice of public hearing. Request for public comment on discussion materials.

SUMMARY: This notice announces a public hearing scheduled by the U.S. Sentencing Commission for Pasadena, California, on December 2, 1988, to consider the development of guidelines and policy statements for sentencing organizations found guilty of Federal criminal offenses. In addition, this notice invites public analysis and comment regarding discussion materials on organizational sanctions published by the Commission.

DATE: A public hearing on the topic of organizational sanctions is scheduled for: December 2, 1988, 9:30 a.m. to 4 p.m., Courtroom Three, United States Court of Appeals, 125 S. Grand Avenue, Pasadena, CA.

The Commission encourages interested persons to submit written comments regarding its Discussion Materials on Organizational Sanctions (available from the Commission upon request) or other written statements on the subject of organizational sanctions.

ADDRESS: Written statements, comments on the Commission's Discussion Materials, requests to testify, and other written communications may be mailed to: United States Sentencing Commission, 1331 Pennsylvania Avenue NW., Suite 1400, Washington, DC 20004, Attention: Organizational Sanctions Comment.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director for the Commission, telephone (202) 662-8800.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent commission in the judicial branch of the United States Government that is charged with the responsibility of establishing sentencing policies and practices for the Federal criminal justice system. The Commission has promulgated sentencing guidelines and policy statements applicable to most Federal offenses committed by individuals.

The preliminary draft guidelines previously published by the Commission in the October 1, 1986, Federal Register (52 FR 35079) also included discussions of general approaches to organizational sentencing. However, the Commission's initial set of sentencing guidelines and policy statements, published in the May 13, 1987, Federal Register (52 FR 18046), deferred promulgation of guidelines for organizational defendants except with respect to fines for antitrust offenses.

After further review and research, the Commission now is considering the development of more comprehensive guidelines and policy statements for sentencing organizations. The Commission invites public comment on all aspects of organization sanctions and public participation in the hearing. As a vehicle for stimulating the broadest possible range of public input, the Commission is distributing a volume entitled "Discussion Materials on Organizational Sanctions" that contains (i) A discussion draft of sentencing guidelines and policy statements covering all types of organizational sentences (restitution, forfeitures, fines, notice to victims, and probation), (ii) a partial alternative to the discussion draft, consisting of a draft proposal on standards for organizational probation, (iii) an empirical report on sentencing of organizations in the Federal courts during the period of 1984 through 1987, and (iv) a staff working paper on criminal sentencing policy for organizations. In addition, the Discussion Materials include a general statement of the subjects and issues regarding organizational sanctions on which the Commission particularly invites public analysis and comment and a reprint of Standard 18-2.8 (Organizational Sanctions) of the American Bar Association's Standards for Criminal Justice (1980 and Supp. 1986).

Copies of the Discussion Materials may be obtained from the Commission upon request. The Commission encourages interested persons to obtain and comment upon the Discussion Materials; however, the Commission emphasizes that it has not adopted any of the approaches suggested in the Discussion Materials and welcomes comments suggesting alternative approaches.

Authority: Section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994, 995).

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 88-24524 Filed 10-21-88; 8:45 am]

BILLING CODE 2210-40-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Wednesday, October 26, 1988. See times below.

LOCATION: Room 556, Westwood Towers, 5401 Westland Avenue, Bethesda, Maryland.

STATUS:

MATTERS TO BE CONSIDERED:

10:00 a.m. *Open to the Public*

1. ATV Voluntary Standard

The Commission will consider the proposed voluntary standard for all-terrain vehicles developed under the provision of the Consent Decrees in *United States v. American Honda Motor Co., Inc., et al.*, Civil Action No. 87-3525.

2. Lawn Darts Final Rule

The Commission will consider a draft Federal Register notice banning lawn darts capable of causing skull puncture injury. The rule was proposed in the **Federal Register** on July 29, 1988 (53 FR 28657).

3. Tremolite in Limestone Products, HP 87-1

The staff will brief the Commission on Petition HP 87-1 from Mark Germine concerning tremolite in limestone products.

2:00 p.m. Closed to the Public

4. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-432-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westland Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88-24614 Filed 10-20-88: 2:48 pm]

BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time) Monday, October 31, 1988.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C the Second Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s).
2. Regulations Implementing section 504 of the Rehabilitation Act in the Commission's Federally Conducted Programs: FINAL RULE: Response to Public Comments on Notice of Proposed Rulemaking.
3. Proposed Changes to Title VII and the ADEA Recordkeeping Regulations.

Closed Session

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at any time for information on these meeting.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 634-6748.

Date: October 19, 1988.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 88-24553 10-20-88; 2:17 pm]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:07 p.m. on Tuesday, October 18, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,260 (Amendment)

Houston Consolidated Office, Houston, Texas.

Matters relating to the possible closing of certain insured banks.

An administrative enforcement proceeding against an insured bank.

Memorandum regarding the Corporation's corporate activities.

Matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: October 19, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 88-24529 Filed 10-20-88; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

October 19, 1988

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND PLACE: October 26, 1988, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commision. It does not include a listing of all papers relevant to the items on the agenda;

however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 885th Meeting—October 26, 1988, Regular Meeting (10:00 a.m.)

CAP–1.
Project Nos. 10406–001 and 10405–003, Craig W. Scott
CAP–2.
Project No. 5146–005, The City of Allentown, Pennsylvania
CAP–3.
Project No. 9999–001, WV Hydro, Inc. and the City of St. Marys, West Virginia
CAP–4.
Project No. 3490–004, Potter Township, Pennsylvania
CAP–5.
Project No. 9664–001, St. Joe River Rafters
Project No. 9666–002, Marble Creek Associates
Project No. 9656–004, Marble Creek Hydro, Inc.
Project No. 10673–000, Marble Creek Hydro Associates
CAP–6.
Project No. 10081–001, County of Tuolumne and Turlock Irrigation District
Project No. 9990–001, Clavey River Hydroelectric Company
CAP–7.
Project No. 7267–004, Joseph Martin Keating
CAP–8.
Project Nos. 2756–000, –003 and –008, City of Burlington Electric Department
Project Nos. 3101–001 and –002, CIty of Winooski
Project Nos. 9413–001 and –002, Winooski One Partnership
CAP–9.
Docket No. EL84–37–000, Aquenergy Systems, Inc.
CAP–10.
Docket No. QF86–138–002, GWF Power Systems Company, Inc.
CAP–11.
Docket Nos. ER88–579–000, ER88–586–000, ER85–598–001, ER85–607–000, ER85–621–000, ER85–634–000, ER85–648–000, ER85–763–000, ER86–262–000, ER86–341–000, ER87–593–000, ER88–465–000, ER88–554–000 and ER88–558–000, Niagara Mohawk Power Corporation
CAP–12.
Docket No. ER88–582–000, New England Power Pool
CAP–13.
Docket No. ER88–588–000, Columbus Southern Power Company
Docket No. ER88–589–000, Kentucky Power Company
Docket No. ER88–593–000, Appalachian Power Company
Docket No. ER88–597–000, Ohio Power Company
Docket No. ER88–598–000, Indiana Michigan Power Company
CAP–14.
Docket No. ER88–456–001, Central Vermont Public Service Corporation
CAP–15.
Docket No. ER88–527–001, Union Electric Company
CAP–16.
Docket Nos. ER88–304–002 and ER88–305–001, Niagara Mohawk Power Corporation
CAP–17.
Docket Nos. ER87–72–003 and ER87–73–002, Orange & Rockland Utilities, Inc.
CAP–18.
Docket Nos. ER86–694–003 and ER88–273–001, New England Power Pool
CAP–19.
Docket No. QF88–262–001, Everett Energy Corporation
CAP–20.
Docket No. ER81–177–009, Southern California Edison Company
CAP–21.
Docket No. ER88–77–000, Duke Power Company
CAP–22.
Docket No. ER88–75–001, Northern States Power Company (Minnesota)
CAP–23.
Docket No. ER87–476–000, Minnesota Power & Light Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM88–29–000, Annual Charges Under the Omnibus Budget Reconciliation Act of 1986
CAM–2.
Docket No. RM88–28–000, Revision of Filing Fees for Natural Gas Rate and Tariff Filings
CAM–3.
Docket No. RM82–23–000, Revision of Report by Natural Gas Pipeline Companies on Service Interruptions Occurring on the Pipeline System
CAM–4.
Docket No. GP84–23–029 (Phase 2), Stowers Oil & Gas Company, Panhandle Energy Corp., Prairie Oil Co., Sharon Oil Co., Almac Oil Co., Judy Oil Co., Kim Petroleum Co., Inc., Komanche Oil & Gas Co., Omega Energy, Tumbleweed Production, Panstar Oil & Gas, Inc., Dennis Mills Enterprises, Wy-Vel Corp., Walker Operating Corp., and 3W Oil, Inc.
CAM–5.
Docket No. GP86–51–001, Northern Natural Gas Company, Division of Enron Corp. v. Cabot Pipeline Corporation and Texaco Producing Inc.

Consent Gas Agenda

CAG–1.
Docket Nos. RP88–256–000 and 001, West Texas Gas, Inc.
CAG–2.
Docket Nos. RP88–257–000, RP88–181–000, RP86–94–005 and 006, Sea Robin Pipe Line Company
CAG–3.
Docket No. RP88–259–000, Northern Natural Gas Company, Division of Enron Corp.
CAG–4.
Docket Nos. RP88–260–000 and 001, CNG Transmission Corporation
CAG–5.
Docket No. RP88–261–000, Black Marlin Pipeline Company
CAG–6.
Docket No. RP88–262–000, Panhandle Eastern Pipe Line Company
CAG–7.
Docket No. RP88–263–000, United Gas Pipe Line Company
CAG–8.
Docket Nos. RP88–265–000 and RP88–92–000, United Gas Pipe Line Company
CAG–9.
Docket Nos. RP88–266–000, RP88–181–000, RP86–94–005 and 006, Sea Robin Pipeline Company
CAG–10.
Docket No. RP88–94–009, Natural Gas Pipeline Company of America
CAG–11.
Docket No. RP88–253–000, Florida Gas Transmission Company
CAG–12.
Docket No. RP88–264–000, United Gas Pipe Line Company
CAG–13.
Docket Nos. RP88–267–000 and 001, South Georgia Natural Gas Company
CAG–14.
Docket No. TA89–1–41–000, Paiute Pipeline Company
CAG–15.
Docket No. TQ89–1–46–000, Kentucky West Virginia Gas Company
CAG–16.
Docket No. TA89–1–58–000, Texas Gas Pipe Line Corporation
CAG–17.
Docket No. TA89–1–23–000, Eastern Shore Natural Gas Company
CAG–18.
Docket Nos. TA89–1–51–000 and TM89–1–51–000, Great Lakes Gas Transmission Company
CAG–19.
Docket No. TA89–45–000, Inter-City Minnesota Pipelines, Ltd., Inc.
CAG–20.
Docket Nos. TA89–1–5–000, –001 and RP88–140–003, Midwestern Gas Transmission Company
CAG–21.
Docket No. TQ89–2–21–000, Columbia Gas Transmission Corporation
CAG–22.
Docket No. TQ89–1–49–000, Williston Basin Interstate Pipeline Company
CAG–23.
Docket No. TQ89–2–37–000, Northwest Pipeline Corporation
CAG–24.
Docket No. TQ89–1–29–000, Transcontinental Gas Pipe Line Corporation
CAG–25.
Docket No. TF89–1–7–000, Southern Natural Gas Company
CAG–26.
Docket No. RP87–61–003, Eastern Shore Natural Gas Company
CAG–27.
Docket Nos. RP88–17–015 and –017, Southern Natural Gas Company
CAG–28.
Docket No. RP88–211–002, CNG Transmission Corporation
CAG–29.
Docket Nos. RP88–164–000 and 002, West Texas Gas, Inc.
CAG–30.
Docket Nos. RP88–207–004 and 002, Columbia Gas Transmission Corporation

CAG–31.
Docket Nos. TA88–4–42–000 and TQ89–1–42–000, Transwestern Pipeline Company
CAG–32.
Docket No. TA88–2–23–000, Eastern Shore Natural Gas Company
CAG–33.
Docket No. RP88–230–001, Texas Gas Transmission Corporation
CAG–34.
Docket No. RP88–80–009, Texas Eastern Transmission Corporation
CAG–35.
Docket No. RP88–241–001, Panhandle Eastern Pipe Line Company
CAG–36.
Docket No. RP88–240–001, Panhandle Eastern Pipe Line Company
CAG–37.
Docket Nos. RP88–221–001, RP88–67–009 and RP88–81–004, Texas Eastern Transmission Corporation
CAG–38.
Docket No. RP88–229–002, Southern Natural Gas Company
CAG–39.
Docket No. RP88–228–002, Tennessee Gas Pipeline Company
CAG–40.
Docket No. RP88–223–002, Texas Eastern Transmission Corporation
CAG–41.
Docket Nos. RP88–187–002 and 006, Columbia Gas Transmission Corporation
CAG–42.
Docket Nos. RP88–217–002, TA88–1–22–002 and 003, CNG Transmission Company
CAG–43.
Docket Nos. TQ88–2–9–001, TM88–1–9–001 and TA88–1–9–004, Tennessee Gas Pipeline Company
CAG–44.
Docket No. RP82–114–012, Williams Natural Gas Company
CAG–45.
Docket Nos. RP88–68–003 and RP87–7–033, Transcontinental Gas Pipe Line Corporation
CAG–46.
Docket No. RP88–207–003, Columbia Gas Transmission Corporation
CAG–47.
Docket No. RP88–182–000, Gas Research Institute
CAG–48.
Docket No. RP84–34–000, Midwestern Gas Transmission Company
CAG–49.
Omitted
CAG–50.
Docket No. RP87–39–000, Williams Natural Gas Company
CAG–51.
Docket No. RP85–148–007, Transcontinental Gas Pipe Line Corporation
Docket No. RP85–170–004, Texas Eastern Transmission Corporation
Docket No. RP85–181–002, Texas Gas Transmission Corporation
Docket No. RP85–202–002, Trunkline Gas Company
Docket No. RP85–203–003, Panhandle Eastern Pipe Line Company
CAG–52.
Docket Nos. RP88–227–002 and CP88–87–004, Paiute Pipeline Company
CAG–53.
Docket No. RP86–080–000, Jupiter Energy Corporation
CAG–54.
Docket No. IS85–15–000, Southern Pacific Pipe Lines, Inc.
CAG–55.
Docket No. IS88–24–000, Texas Eastern Products Pipeline Company
CAG–56.
Docket No. ST88–4014–000, Taft Pipeline Company
CAG–57.
Docket Nos. ST88–4223–000 and ST88–4224–000, Transco-Louisiana Intrastate Pipeline Company
CAG–58.
Docket No. ST88–4246–000, Mississippi Valley Gas Company
CAG–59.
Docket No. ST88–4279–000, Cranberry Pipeline Corporation
CAG–60.
Docket No. ST88–5350–000, Monterey Pipeline Company
CAG–61.
Docket No. G–4579–056, *et al.*, Cities Service Oil and Gas Corporation (Operator), *et al.*
CAG–62.
Docket No. CI88–59–001, Conoco, Inc., Cities Service Oil and Gas Corporation, Texaco Producing, Inc. and AGIP Petroleum Company, Inc.
CAG–63.
Docket No. CI71–187–001, Phillips 66 Natural Gas Company
CAG–64.
Docket Nos. CI88–255–000 and CI88–280–000, Exxon Corporation
CAG–65.
Docket Nos. CI86–440–000, CI86–441–000, CI86–446–000 and CI86–507–000, United Gas Pipe Line Company
CAG–66.
Docket No. CI85–513–009, Tenngasco Gas Supply Company, *et al.* v. Southland Royalty Company, *et al.*
CAG–67.
Omitted.
CAG–68.
Docket No. CP86–280–001, Northwest Pipeline Corporation
CAG–69.
Docket No. CP87–519–001, Colorado Interstate Gas Company
CAG–70.
Docket No. CP87–165–001, Overthrust Pipeline Company
CAG–71.
Docket No. CP84–336–004, Transcontinental Gas Pipe Line Corporation
CAG–72.
Docket Nos. CP88–269–002, CP88–346–002 and CP88–459–001, Alabama-Tennessee Natural Gas Company
CAG–73.
Docket No. CP88–101–001, Arkansas Western Gas Company
CAG–74.
Docket Nos. TC88–8–000 and 001, Kentucky West Virginia Gas Company
CAG–75.
Docket No. CP88–2–008, Northern Natural Gas Company, Division of Enron Corp.
CAG–76.
Docket No. CP88–681–000, Panhandle Eastern Pipe Line Company
CAG–77.
(A) Docket No. CP87–451–013, Northeast U.S. Pipeline Products
(B) Docket No. CP87–451–014, Northeast U.S. Pipeline Products
CAG–78.
Docket Nos. CP88–79–000 and 001, National Steel Corporation
CAG–79.
Docket No. CP88–369–000, Carnegie Natural Gas Company
CAG–80.
Docket No. CP88–13–000, Columbia Gas Transmission Corporation
CAG–81.
Docket No. CP88–433–000, El Paso Natural Gas Company
CAG–28.
Docket No. CP87–123–025, Northwest Alaskan Pipeline Company
CAG–83.
Docket Nos. CP87–467–003, CP79–462–009 and CP66–110–035, Great Lakes Gas Transmission Company
CAG–84.
Docket No. CP88–440–000, Southern Natural Gas Company
CAG–85.
Docket Nos. CP88–102–000 and 001, Williams Natural Gas Company
CAG–86.
Docket No. CP88–383–000, United Gas Pipe Line Company
CAG–87.
Docket No. CP87–206–000, Natural Gas Pipeline Company of America
CAG–88.
Docket No. CP88–362–000, ANR Pipeline Company
CAG–89.
Docket Nos. CP87–365–000, CP87–471–000, CP87–472–000, CP87–481–000, CP87–488–000 and CP88–66–000, United Gas Pipe Line Company
CAG–90.
Docket No. CP88–255–000, Transcontinental Gas Pipe Line Corporation
CAG–91.
Omitted.
CAG–92.
Docket No. RP88–174–000, Dynasty Gas Marketing, Inc., v. Northern Border Pipeline Company
Docket No. RP88–195–001, Northern Border Pipeline Companies
CAG–93.
Docket No. CP86–665–000, National Fuel Gas Supply Corporation
Docket No. CP86–746–000, Mercer Gas Company and North East Heat and Light Company v. National Fuel Gas Supply Corporation
CAG–94.
Docket No. CP88–387–000, Ken-Gas of Tennessee, Inc.
CAG–95.
Docket Nos. CP87–103–000 and 001, Tennessee Gas Pipeline Company
CAG–96.
Docket Nos. CP86–589–006, RP86–104–007 and RP87–30–015, Colorado Interstate Gas Company
CAG–97.
Docket No. CP87–339–001, Columbia Gas Transmission Corporation

CAG–98.
Docket No. CP88–325–001, Alabama-Tennessee Natural Gas Company
CAG–99.
Docket No. CP87–85–001, Tennessee Gas Pipeline Company
CAG–100.
Docket No. RP88–78–002, Transwestern Pipeline Company

I. Licensed Project Matters

P–1.
Reserved

II. Electric Rate Matters

ER–1.
Reserved.

Miscellaneous Agenda

M–1.
Reserved
M–2.
Reserved

I. Pipeline Rate Matters

RP–1.
(A) Docket No. RP88–184–001, El Paso Natural Gas Company. Rehearing order concerning Order No. 500 prudence and El Paso's appeal.
(B) Docket Nos. RP88–198–001, 002 and 003. Transwestern Pipeline Company. Rehearing order concerning Order No. 500, take-or-pay and direct billing.
RP–2.
Omitted.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1.
Docket Nos. CP87–479–003 and CP87–480–001, Wyoming-California Pipeline Company. Order on request for rehearing of declaratory order issued July 1, 1988.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24644 Filed 10–20–88; 3:51 pm]

BILLING CODE 6717–01

MARINE MAMMAL COMMISSION

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Thursday, February 23, 1989, from 8:30 a.m. to 10:00 a.m. They will meet in public on Thursday, February 23 from 10:00 a.m. to 5:30 p.m., on Friday, February 24, from 9:00 to 5:30 p.m., and on Saturday, February 25, from 9:00 a.m. to 1:00 p.m.

PLACE: Doubletree Hotel, 2 Portola Plaza, Monterey, California 93940.

STATUS: The executive session will be closed to the public. All other portions of the meeting will be open to public observation. Public participation will be allowed if time permits and such participation is determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: While the Commission and Committee will meet in public session to discuss a broad range of marine mammal issues, key topics for discussion will be: Actions to be taken as a result of amendments to the Marine Mammal Protection Act; marine mammal/fishery interactions; the tuna/porpoise issue; the Southern sea otter; and international whaling.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 1625 I Street, NW., Washington, DC 20006 (202) 653–6237.

Date: October 20, 1988.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 88–24599 Filed 10–20–88; 2:19 pm]

BILLING CODE 6820–31–M

SECURITIES AND EXCHANGE COMMISSION

AGENCY MEETINGS

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 24, 1988.

A open meeting will be held on Tuesday, October 25, 1988, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, October 25, 1988, at 10:00 a.m., will be:

Consideration of whether to issue a concept release on timely review of interim financial information. The concept release invites comments on whether the Commission should propose a requirement that (1) interim financial data of registrants be reviewed by independent accountants before such information is filed with the commission and (2) a report issued by the independent accountant upon completion of his review be included by the registrant in its Form 10–Q and in any registration statements that include interim information. For further information, please contact Jack Parsons at (202) 272–2130.

The subject matter of the closed meeting scheduled for Tuesday, October 25, 1988, following the 10:00 a.m. open meeting, will be:

Settlement of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Formal orders of investigation.

Motion to dismiss injunctive action.

Institution of injunctive action.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

October 19, 1988.

[FR Doc. 88–24587 Filed 10–20–88; 2:18 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Opening meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 19, 1988.

CHANGE IN THE MEETING: Additional item.

The following item will be considered at an open meeting on Tuesday, October 25, 1988, at 10:00 a.m.:

Consideration of whether to publish for comment a release proposing alternative versions of new Rule 144A that would provide a safe harbor from the registration requirements of the Securities Act of 1933 for resale of securities to institutional investors. Additionally, consideration of whether to publish for comment a proposal to amend Rules 144 and 145 under the Securities Act, under which the holding period for restricted securities would commence at the time the securities are sold by the issuer or its affiliate. For further information, please contact Sara Hanks or Samuel Wolff at (202) 272–3246, or as to changes to Rules 144 and 145, Catherine Dixon at (202) 272–2573.

Commissioner Grundfest, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

October 20, 1988.

[FR Doc. 88–24646 Filed 10–20–88; 4:01 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 53, No. 205
Monday, October 24, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3367-6]

Standards of Performance for New Stationary Sources; Methods 5F Amendment; Addition of Barium-Thorin Titration Procedure for Sulfates

Correction

In rule document 88-17800 beginning on page 29681, in the issue of Monday, August 8, 1988, make the following corrections:

1. On page 29683, in the first column, in 7.1.3.3, in the eighth line, "method" should read "Method".

2. On the same page, in the third column, in 7.1.5.1, in the 10th line, "ba($C1O_4$)$_2$" should read "Ba(ClO_4)$_2$".

3. On the same page, in the same column, in 7.1.5.1, in the 20th line, "Ba($C1O_4$)$_2$" should read "Ba(ClO_4)$_2$".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 233

[FRL-3214-1]

Clean Water Act Section 404 Program Definitions and Permit Exemptions; Section 404 State Program Regulations

Correction

In rule document 88-12632 beginning on page 20764 in the issue of Monday, June 6, 1988, make the following correction:

§ 233.50 [Corrected]

On page 20783, in the third column, in § 233.50(b), in the ninth line, "45 days" should read "15 days".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 270

[FRL 3388-2]

Permit Modifications for Hazardous Waste Management Facilities

Correction

In rule document 88-21903 beginning on page 37912 in the issue of Wednesday, September 28, 1988, make the following correction:

Appendix I to § 270.42 [Corrected]

On page 37941, in Appendix I to § 270.42, in the last entry, in the bottom line, in the right hand column, insert "2".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 87N-0160]

D&C Red No. 33

Correction

In rule document 88-19541 beginning on page 33110 in the issue of Tuesday, August 30, 1988, make the following corrections:

1. On page 33110, in the third column, in the **SUMMARY**, in the second line, "FDS" should read "FDA".

2. On page 33111, in the second column, in the first complete paragraph, in the ninth line, "naphtol" should read "naphthol".

3. On the same page, in the same column, in the last line, "latest" was misspelled.

4. On page 33112, in the third column, in the seventh line, "data" should read "date".

5. On page 33113, in the third column, in the last complete paragraph, in the third line, "0.25" should read "0.025".

6. On page 33116, in the first column, in the fourth complete paragraph, in the seventh and eighth lines, "Θg" should read "μg".

7. On the same page, in the second column, Table II was inaccurate and is republished in its entirety as follows:

TABLE II—ESTIMATED IMPURITY EXPOSURE AT THE SPECIFICATION LIMITS

Impurity	Specification (ppb)	High User Exposure (ng/day) [1]	
		Systemic	Dermal
4-Aminoazobenzene	100	0.02	0.08
4-Aminobiphenyl	275	0.04	.....
Aniline	25,000	4.0	.....
Azobenzene	1,000	0.2	.....
Benzidine	20	0.003	.....
1,3-Diphenyltriazene	125	0.02	0.1

[1] ng = Nanograms (1 billionth of a gram).

8. On the same page, in the same column, in the first paragraph, in the eighth line, "Θg" should read "μg". In the second paragraph, in the eleventh line, after "user" insert "external". In the twelfth line, "Θg" should read "μg".

9. On page 33117, in the third column, in the first complete paragraph, in the first line, "1,-Diphenyltriazene" should read "1,3-Diphenyltriazene".

10. On page 33118, in the second column, Table III was inaccurate and is republished in its entirety as follows:

TABLE III—UPPER BOUND RISK ESTIMATES BASED ON SPECIFICATIONS FOR CARCINOGENIC IMPURITIES IN D&C RED NO. 33

Impurity	Lifetime cancer risk	
4-Aminoazo-benzene [1]	0.000000002	($2X10^{-9}$)
4-Aminobiphenyl	0.00000002	($2X10^{-8}$)
Aniline	0.00000000004	($4X10^{-11}$)
Azobenzene	0.00000000002	($2X10^{-11}$)
Benzidine	0.00000002	($2X10^{-8}$)
1,3-Diphenyltriazene [1]	0.00000000001	($1X10^{-11}$)
Sum [2]	0.00000004	($4X10^{-8}$)

[1] The risk for skin cancer is used here because it is higher than the risk estimated for systemic cancer.
[2] In summing risk estimates, numbers have been rounded off to the nearest significant figure.

11. On page 33119, in the first column, in the heading, "References" was misspelled.

BILLING CODE 1505-01-D

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

Correction

In proposed rule document 88-24154 beginning on page 40914 in the issue of Wednesday, October 19, 1988, make the following corrections:

1. On page 40915, in the first column, under **SUPPLEMENTARY INFORMATION**, in the third line, "Pub. L. 98-377" should read "Pub. L. 97-377".

§ 1626.2 [Corrected]

2. On page 40916, in the second column, "§ 162.2 Definitions" should read "§ 1626.2 Definitions".

§ 1626.3 [Corrected]

3. On the same page, in the third column, in § 1626.3(a)(2), in the sixth line, "and" should read "an".

4. On the same page, in the same column, in § 1626.3(c)(2). beginning in the 10th line, the last sentence was incomplete and should read as follows: "Consequently, the prohibition of assistance on behalf of an ineligible alien extends to all legal assistance wherein the admission of a person into the United States is sought and to any other immigration matter wherein an eligible alien is assisted to aid or facilitate the adjustment of the status of an ineligible alien."

BILLING CODE 1505-01-D